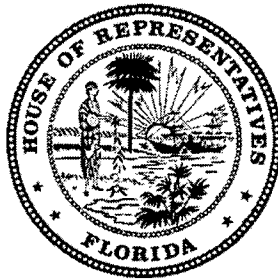


**FLORIDA COMMISSION ON TOURISM &
VISIT FLORIDA:**

A REVIEW AFTER 10 YEARS (1996-2006)

2006



**The Florida House of Representatives
Allan G. Bense, Speaker**

**State Infrastructure Council
Dave Russell, Chair**

**Tourism Committee
Nancy Detert, Chair**

FLORIDA COMMISSION ON TOURISM & VISIT FLORIDA

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Executive Summary

Purpose

The purpose of the interim project report is to provide Members with information on the Florida Commission on Tourism and VISIT FLORIDA's compliance with current law, on the need for any changes in law to address changes in the state and the tourism industry over the last ten years, on long-term tourism marketing and promotion initiatives that could impact public financial participation, and on the use of funds for hurricane recovery and, if possible, the effect of those funds.¹

Background

For ten years, the Florida Commission on Tourism (Commission) and its direct-support organization, VISIT FLORIDA, have functioned as the state's tourism promotion and marketing arm. They have been responsible for maintaining the vitality of an industry segment that, at a minimum, provides approximately 20 percent of our state sales tax revenues.

Although there have been three OPPAGA reviews which primarily focused on the ability of the Commission and VISIT FLORIDA to comply with statutorily required outcome measures and performance standards and the development and refinement of return on investment measures, there has not been a formal legislative committee review to determine overall compliance with requirements of the law nor to determine if, after 10 years of existence, provisions of the law need to be updated.² Included in this review should be an examination of the short-term and long-term vision for the state's tourism marketing and promotion initiatives that have been identified by these entities so that the Legislature can provide input, if needed, and can monitor these efforts and their impact on the vitality of the state's tourism industry and the need, if any, for additional public funding to maintain or increase the state's tourism market share.

Another area for review involves the Commission and VISIT FLORIDA's hurricane recovery efforts related to tourism. Prior to the Regular 2005 Legislative Session, the House Tourism Committee held both a meeting and a hearing on the impact of the 2004 hurricanes on the tourism industry and infrastructure in Florida and proposals for addressing the short-term and long-term needs of the state and impacted local communities. Although no funding was specifically appropriated to assist in the tourism initiatives proposed to keep tourists and convention business coming to the state, House leadership was instrumental in working with the Governor to secure \$4.75 million in increased state revenue to help bolster Florida's tourism marketing campaign. These funds, along with additional private sector revenues, were to be used to enhance the state's marketing program to reach both leisure travelers and meeting planners, to

¹ See ss. 288.1221 through 288.1227, 288.017, and 14.2015, F.S.

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encourage meetings and conventions, and to provide grant funds for areas hardest hit by the hurricanes. The focus of the marketing efforts was to be geared toward improving perceptions on travel to Florida specifically during June through November 2005. The use of the funds and the effectiveness of these efforts need to be reviewed to assist in future program and funding requests brought before Members.

The issues to be reviewed in the report are diverse. Yet, they all relate to how well the state's public-private tourism partnership has performed and is performing as the state's tourism marketing and promotion entity. They also relate to identifying what, if anything, needs to be done to assist in keeping the state the premier tourist destination.

Methodology

To assist in providing answers to issues outlined above, staff conducted the following research:

- Review of Florida law governing the public-private partnership;
- Review of previous legislative committee and OPPAGA reports on the public-private partnership;
- Review of partnership contracts;
- Review of marketing plans, proposals, and budgets;
- Interviews of VISIT FLORIDA staff and members of the board of directors, both over the telephone and through written responses to a questionnaire;³
- Interview of OTTED staff; and,
- Interview through a questionnaire of persons in select areas of the state who are knowledgeable of and involved in the tourism industry in their local communities.

Findings

Tourism Public-Private Partnership

- Florida Commission on Tourism/VISIT FLORIDA—Public-Private Partnership

Florida has taken a number of steps to ensure that the economic value of tourist generated commercial activity and the corresponding tax revenues continue to be a major component of Florida's economic base. One major step was taken when the Department of Commerce was dismantled in 1996 and the responsibilities for the state's tourism promotion and marketing efforts was placed in a statutorily created public-private partnership: the Florida Commission on Tourism and its direct support organization, the Florida Tourism Industry Marketing Corporation (now doing business as VISIT FLORIDA).⁴ The hope was then, and continues to be, that by pairing governmental

³ See Appendix A for the questionnaire used in all interviews.

⁴ The 1991 Legislature created the Florida Tourism Commission in Chapter 91-31, L.O.F., and gave the Commission a year to collect empirical data and answer specific policy questions on the state's role in promoting itself as a tourist destination, including the question of how to fund the promotion based on an industry-standard plan. In 1992, the Legislature made the Commission a permanent 17-member body and made it administratively adjunct to the Department of Commerce. The Commission was to advise the

funds and official status with private funds and expertise, the eventual outcome of Florida's tourism promotion efforts will be economic growth for the state's tourism industry sector, and, subsequently, the state's overall economy.

The purpose of the 35 member Commission is to be the administrative policy link between the public and the private sector tourism promotion partners. The purpose in law states that the Commission is to:

- Oversee the state's efforts to increase the positive impact of tourism, including increased employment for state citizens, to all sectors of the economy through effective marketing activities;
- Continually upgrade the image of Florida as a quality destination;
- Promote tourism objectives with all geographic, socioeconomic, and community sectors considered equitably; and,
- Judge its efforts by the same standards of accountability and integrity as those used by successful, respected private sector businesses.⁵

VISIT FLORIDA, composed of the private and non-state public sector members of the Commission, is the private side of the public-private partnership and is charged with carrying out the policies set forth by the public partner in its 4-year marketing plan and other provisions of law. It operates as the umbrella organization under which the state's tourism marketing campaigns are coordinated. The mission of VISIT FLORIDA is to market and facilitate travel to and within Florida for the benefit of its residents, economy, and travel and tourism industry.⁶

Funding from the state for its tourism efforts comes primarily through the dedication of 15.75% of the \$2 per day surcharge on rental car leases as well as any additional General Revenue appropriations. Those funds, however, are required to be matched by VISIT FLORIDA on a 1:1 basis from the private sector.⁷

- Relationship with Governor's Office on Tourism, Trade and Economic Development

Through a contract with the Governor's Office of Tourism, Trade, and Economic Development, the Commission carries out its purpose, duties, and responsibilities assigned by statute. The contract also requires the submission of various reports on a quarterly and annual basis that are in addition to those required by law. These reports are required of the Commission but are to be prepared by VISIT FLORIDA on its behalf.

Division of Tourism on tourism promotion and marketing. Later, the Commission recommended the privatization of tourism activities to free it from the inability to quickly respond to market changes and to provide more money for tourism initiatives through other sources. In 1995, the House Tourism and Cultural Affairs Committee began discussing changes to the way in which the state tourism initiatives were handled. In 1996, the Committee spearheaded the efforts toward privatization. The industry advocated for the change and pledged \$6 million for matching state dollars even before legislation was passed.

⁵ See s. 288.1223(1), F.S.

⁶ VISIT FLORIDA's four-year, Strategic Plan 2006 - 2009, approved by the Commission and the board of directors of VISIT FLORIDA in December 2005.

⁷ See ss. 288.1224(4)(c) and 212.0606, F.S.

The quarterly payment schedule is outlined with the caveats that payment is contingent upon meeting the quarterly requirements as well as the availability of funds. The contract also includes performance measures that are included in the Implementing Bill as part of the requirements. The Commission must approve all contracts. Once a contract is signed, then money can be released to VISIT FLORIDA pursuant to the contract with the Commission.

An issue that has been raised by the Commission is the timeliness in which OTTED presents the contracts for consideration by the partnership. Contracts, not even first drafts, are ready for consideration by the beginning of the fiscal year. In the past, contracts have been prepared and negotiated and ready for consideration by the Commission no later than the September quarterly meeting with disbursement of funds following shortly thereafter. This year a substantially rewritten contract was not provided for consideration until September 17, 2005. Major points of the contract were negotiated and a final contract was received from OTTED on November 4, 2005. The contract was sent to the Commission's executive committee on November 7, 2005 and was approved by the committee and signed on November 10, 2005. The fax of the contract was signed by OTTED on November 12, 2005 with the actual contract not being signed until December 5, 2005. The first quarter payment applied for on September 30, 2005 was received in two payments on November 17, 2005 and November 21, 2005.

Some commissioners expressed concern about the need for contracts being ready much sooner so that negotiations, if needed, could take place and be resolved, and funding be released in a timely fashion to avoid any possibility of a cash flow problem.

- Impact of Tourism Public-Private Partnership

Florida's tourism program under the Department of Commerce was valued at \$14 million in FY 1995-96. In FY 1996-97, the state had provided \$18 million and the private sector had invested \$23.8 million for a program worth \$41.8 million. In FY 2004-05, the state invested \$25.6 million and the private sector invested \$65.5 million for a program worth \$91.1 million.⁸ In 1996, with the creation of VISIT FLORIDA, it had 407 private sector partners and in FY 2004-05 that number had grown to 3,432.⁹ Direct travel-related employment in the state has increased from 732,800 in 1995 to 912,700 in 2004.¹⁰ Over the last five years, the number of visitors has increased from 72.8 million to almost 80 million, and the sales tax collections attributed to tourism-related expenditures has grown from \$2.9 billion to \$3.4 billion.¹¹

For more information on the public-private partnership, its structure and responsibilities, the contracts with OTTED, and the partnership's impact please see pages 4 through 13 of the report.

⁸ See Appendix F for a chart of public and private funding over a ten year period.

⁹ VISIT FLORIDA 2004-2005 Annual Report, VISIT FLORIDA, p. 24.

¹⁰ See Appendix G for a chart on direct travel-related employment.

¹¹ See Appendix I for charts on tourism-related taxable sales and tourism-related sales tax collections and Appendix J for charts on State and County Fiscal Year collections for local option tourist-related taxes.

Compliance

Both the Commission and VISIT FLORIDA have met their statutorily required responsibilities.¹² Please see the charts on pages 15 – 23 of the report for details on responsibilities and compliance. For FY 2004-05, the annual standard for the performance measures required in the Legislative Implementing Bill and in the contract with the Governor's Office of Tourism, Trade, and Economic Development (OTTED) have been met or exceeded with the following exceptions:

- Resident travel was 600,000 below the FY 2004-05 standard. According to VISIT FLORIDA, the pattern of decrease suggests that resident travel was affected first by the hurricanes and then later in the year by gas prices.
- Local option tourist-related tax was \$44.6 million below the standard because figures do not include the last quarter numbers which are not available from the Department of Revenue at this time.
- Number of leads is down by 229,403 (a little less than half).¹³ According to VISIT FLORIDA, consumer demand has changed to website rather than use of the toll-free number. The mailing of printed material has decreased while website hits have increased.
- Number of private sector partners was 276 partners under the standard. The FY 2004-05 number of partners was below the FY 2003-04 number of partners by 96. According to VISIT FLORIDA, the loss of partners was due to hurricanes and related economics.
- Strategic alliance program revenue was below the standard by \$28,905 and was below the FY 2003-04 revenue by \$8,496. According to VISIT FLORIDA, the difference between the two fiscal years was due to the loss of one strategic alliance partner due to its financial difficulties.¹⁴

According to the contract between the Commission and OTTED, acceptable reasons for not meeting a performance standard include, but are not limited to, uncontrollable circumstances, unfavorable external economic conditions, quarterly variations, establishment of new processes, including the transfer of programs, and allocation of resources to meet priority demands as determined by OTTED.¹⁵

The standards for FY 2005-06 are the same as those for the fiscal years cited above. See Appendix K for a complete listing of the standards and compliance for the two previous fiscal years.

¹² Neither the Commission nor VISIT FLORIDA have the required number of gubernatorial appointees. This is not the responsibility of either entity. Names, however, have been submitted for the Governor's review. Additionally, one position that is required for a representative of a statewide organization representing the hotel industry might not be able to be filled until there is legislative clarification. See the discussion contained in the report and the discussion of conclusions.

¹³ The word "leads" refers to the number of requests for specific written information based upon a call to action from print, radio, or television advertisement.

¹⁴ See Appendix K for the Final Report on Performance Measures for FY 2004-05.

¹⁵ OTTED Agreement OT-06-003, p.4.

Use of Emergency Funds and Supplemental Funding for Hurricane Recovery

- General Comments

From August 13, 2004 to September 26, 2004, there were four hurricanes that made landfall in Florida impacting the economy of the state in many areas. One of those areas affected was tourism: both in perception and in actuality. The Commission on Tourism and VISIT FLORIDA expressed that the way to help the state ensure recovery was by addressing concerns of both meeting planners and leisure travelers regarding travel during the hurricane season. The focus of the effort was on the months of June through November, 2005.

In the months of July, August, September, and October 2005, the state was again impacted by four hurricanes. Three made landfall and one, Rita, caused an evacuation of the Florida Keys.

- Use of Emergency Funds

The law requires that the Commission's four-year marketing plan include an emergency response component. This is also required in the contract with OTTED. The Commission, in turn, requires VISIT FLORIDA to maintain such a fund. The fund has been maintained at \$2 million.

Of the \$2 million after the 2004 hurricanes, over \$1.6 million funded advertising, approximately \$122,000 was used to fund research, and approximately \$243,560 funded domestic and international public relations initiatives. These funds, some used even after Charley first hit, were committed prior to the receipt of any hurricane relief funding in 2005.

For a discussion on the replenishment of the emergency fund and on other actions outside of the funding that were instituted by the Commission and VISIT FLORIDA, please go to the section of the report that discusses hurricane recovery.

- Funding After the 2004 Hurricane Season

Even before the commencement of the Regular 2005 Legislature, meetings and hearings were held on the impact of the hurricanes on the tourism industry and infrastructure in Florida and proposals for addressing the short-term and long-term needs of the state and impacted local communities. Although no funding was specifically appropriated to assist in the tourism initiatives proposed to keep tourists and convention business coming to the state, House leadership was instrumental in working with the Governor to secure \$4.75 million in increased revenue to help bolster Florida's tourism marketing campaign. Those funds, along with an additional \$1.418 million made available by freezing select VISIT FLORIDA programs (a decision made by the board of directors), brought the total available funding to \$6.168 million. The funds were to be used to enhance the state's marketing program to reach both leisure travelers and meeting planners, to encourage

meetings and conventions, and to provide grant funds for areas hardest hit by the hurricanes. The focus of the marketing efforts was to be geared toward improving perceptions of travel to Florida specifically during June through November 2005.

The funding was used to do the following:¹⁶

- Provide increased advertising and promotions through radio and television to address consumer perception issues related to coming to Florida;
- Provide increased funding for consumer information to be provided in the welcome centers;
- Provide increased advertising, direct marketing and Internet programs supporting the “Cover Your Event” insurance, and the “See For Yourself” meeting planner visitation program to address planner perception issues about booking events in the state;
- Provide media tours highlighting the state, media missions, and media satellite tours to educate the media on all of the state;
- Distribute marketing grants to 10 areas of the state impacted by the hurricanes; and,¹⁷
- Provide funding for pre and post meeting planner and consumer research.

Studies conducted in March and June showed that the efforts were in fact doing what they were intended to do.

- Impact of Efforts on Tourism

The numbers of tourists coming to the state and certain tourism indicators indicate that tourism in the state appears to be doing well.

For example, according to the President and CEO of VISIT FLORIDA, the 2005 third quarter visitation to Florida rose by 9.3% in spite of the hurricanes and the adverse media coverage they brought. In fact, he projected that the state was on track to break the 80 million visitor mark for 2005.¹⁸

Additionally, the consensus-built forecast for 2006 tourism presented to the Florida Commission on Tourism in December 2005 indicated that Florida can expect to see 3.2% more visitors in 2006. This is higher than national forecasts that predict 2% more visitors to the country. However, the consumer perceptions strategic research conducted in November 2005, which was part of the research for the forecast, indicated that consumer perceptions in certain areas were equal to or worse than those expressed in October 2004.

¹⁶ See Appendix L for “2004 Hurricane Response Reconciliation of Funding” for the state expenditures prepared by VISIT FLORIDA and Appendix M for the plan for the use of the funds presented to the Governor and the Legislature on February 10, 2005.

¹⁷ See Appendix N for a listing of the VISIT FLORIDA Hurricane Grants.

¹⁸ *President’s Report*, included in December 2005 VISIT FLORIDA quarterly meeting packet. According to an analysis of visitor estimates by VISIT FLORIDA, in the third quarter of 2004, visitation to the state managed to increase slightly (0.6%) during that period.

The perceptions in two earlier surveys in 2005 had indicated significant improvement. The question is, how much ground that had been gained through earlier efforts has been lost? Additionally, what does this mean since the consensus is still for growth in tourism numbers? Additional surveys are to be conducted prior to the Legislative Session. Hopefully, these studies will provide more insight into the significance of the earlier findings.¹⁹

For additional impact information please see pages 27 - 28 of the report.

- Issues Identified

The general comments and issues identified are based on a questionnaire and interviews of persons in the tourism industry.

In reviewing the public-private partnership, respondents unanimously agreed that the public-private partnership had improved tourism initiatives in the state. Respondents were asked to identify strengths and also to identify weaknesses or deficiencies of the structure that needed to be addressed.

Weaknesses identified did not relate to the structure of the public-private partnership but to funding, contracts, and requirements impacting the partnership. The weaknesses or deficiencies that the majority of the respondents identified related to the need for additional funding or the need for alternative funding sources which will be discussed under the heading on funding in this section of the report.

Responses to questions relating to Commission membership indicated that there is a need to do further study on the usefulness of the current statutorily-based six tourism regions that are used for 17 of the members of the Commission. One response cited the need for a review of attendance criteria for Commission members. The request was for a statutory requirement for attendance of 3 of the 4 quarterly meetings in a year.

An issue was also raised about the number of statutorily-required Commission meetings suggesting that the number be lowered from quarterly to three times a year.

Several suggestions were made regarding contracts with OTTED. Some of these related to specific contract requirements and others related to the timeliness of contracts. For a discussion of these, see pages 31 - 32 of the report.

Finally, the funding issues raised by the questionnaire and the Commission's strategic plan for 2006-2009 are included on pages 32 - 33 of the report.

¹⁹ Outlook 2006 Consensus-Built Forecast, Presented by Barry E. Pitegoff, Vice President of Research, VISIT FLORIDA, December 12, 2005. The consensus report is based upon four studies commissioned by VISIT FLORIDA and two additional secondary studies.

Conclusions

The following conclusions are made from the findings of the report and are provided for the consideration of the Members:

- The Florida Commission on Tourism and VISIT FLORIDA meet statutory requirements and contractual requirements regarding responsibilities. As discussed below, the only noted issue is not having the statutorily required number of members; however, this is not under the control of the Commission nor VISIT FLORIDA.
- The required statutory tourism industry membership of the Florida Commission on Tourism is 32; however, as of this date, there are only 26 members. These members also serve as the board of directors for VISIT FLORIDA. The vacancies, including required additions made in 2005, have been in existence for six months. The appointments are statutorily required to be made by the Governor.
- The required statutory membership for the Commission includes five representatives from tourist-related statewide associations, including those that represent hotels, campgrounds, county destination marketing organizations, restaurants, and attractions. When the language was written, there was a distinct organization representing hotels and one representing restaurants. Now, there is a combined association, the Florida Restaurant and Lodging Association. This association does not include some of the larger county hotel and motel associations as members. Those associations have formed their own coalition. There are three questions that need to be answered:
 - Is there a “statewide” association representing hotels that can fulfill the specific statutory membership requirement?
 - If an organization represents two groups, should it be allowed to have two voting members on the Commission and the board of directors of VISIT FLORIDA?
 - Based upon the response to the two prior questions, should the language be left as it is, amended, or deleted?
- The number of members of the board of directors for VISIT FLORIDA was not changed during the 2005 Session to conform to the tourism-industry-related membership of the Commission. The Commission has 32 such members; yet, the VISIT FLORIDA board of directors is required to have only 31 members. It is recommended that the two are conformed.²⁰
- The regional distribution of the 17 general tourism-industry-related appointments should continue to be reviewed to determine if the six regions should be

²⁰ See ss. 288.1223(2) and 288.1226(4), F.S.

reconfigured or expanded. If there is any change, there needs to be a determination on how changes will impact the Commission and the VISIT FLORIDA board of director membership and their effectiveness.

- The Commission is required to recommend a 4-year marketing plan to be carried out by VISIT FLORIDA.²¹ According to responses to the questionnaire, the use of the term “marketing plan” is no longer accurate. Actually, the correct terminology is “strategic plan.” Marketing is a part of a strategic plan to sustain tourism growth. Additionally, industry representatives stated that in the fields of marketing, advertising, and promotion strategic plans are three years in duration because of the rapid changes in the fields. Consideration should be given to updating the terminology used in the law to reflect current practice. Consideration should also be given to reducing the length of the plan to three years.
- Three issues were addressed through the questionnaire responses that should be reviewed for possible legislative change: reduction in the number of statutorily-required meetings of the Commission and the addition of criteria to the law as grounds for removal of a member of the Commission, such as failure to attend 3 out of the 4 meetings held each year.
- Another issue brought up in the questionnaire and in the strategic plan for the Commission and VISIT FLORIDA is the need for additional public funding and the need for providing funding for the Economic Risk Fund when the funds are depleted because of an emergency. The discussions on the need for additional funding centered around the current funding not growing with the increased rates in such things as advertising which makes the current funding equivalent to funding in 2000. Decisions have been made to cut television advertising for use by the state because of the costs. Additionally, concerns were raised about the ability to compete in new markets and to maintain market share. The new strategic plan calls for an increase in public funds and private funds over the next four to five years.

It is recommended that the funding level and the requests for funding be carefully reviewed for both short-term and long-term impacts on the growth of the tourism industry and the vitality of the public-private partnership. It is recommended that the strategic plan be reviewed carefully and that the requested investment be analyzed carefully. Always remembering that for every state dollar invested, the non-state sector is required to match it 1:1.

- The timeliness of the Governor’s Office of Tourism, Trade and Economic Development (OTTED) providing the fiscal year contract for consideration by the Florida Commission on Tourism is important. The Commission contracts with

²¹ In December 2005, the Commission adopted the strategic plan that was approved by the VISIT FLORIDA board of directors. The strategic plan includes a variety of marketing initiatives to accomplish statutory goals of the Commission.

VISIT FLORIDA to perform all functions related to implementing the marketing plan and other directives of the Commission. Funding that is provided by OTTED is a reimbursement for services already performed. As a business, VISIT FLORIDA operates with a budget allocated for certain activities approved by the board of directors. Funds cannot be moved from account to account to cover unrelated expenses. Private funds are designated for certain purposes. A substantially rewritten contract was not provided for consideration until September 17, 2005. Major points of the contract were negotiated, and a final contract was received from OTTED on November 4, 2005. The contract was sent to the executive committee on November 7, 2005 and was approved by the committee and signed on November 10, 2005. The fax of the contract was signed by OTTED on November 12, 2005 with the actual contract not being signed until December 5, 2005. The first quarter payment applied for on September 30, 2005 was received in two payments on November 17, 2005 and November 21, 2005. Currently, the contract allows for a continuation of the contract for six months past its expiration date. However, there would appear to be a need for a good faith effort on all parties to execute the contracts as close to the beginning of the fiscal year as possible. The timeliness of contracts by OTTED with its partners should be reviewed and a determination made regarding requiring such contracts to be provided to partners by a time certain and executed by a time certain.

Introduction

Purpose

The purpose of the interim project report is to provide Members with information on the Florida Commission on Tourism and VISIT FLORIDA's compliance with current law, on the need for any changes in law to address changes in the state and the tourism industry over the last ten years, on long-term tourism marketing and promotion initiatives that could impact public financial participation, and on the use of funds for hurricane recovery and, if possible, the effect of those funds.¹

Background

For ten years, the Florida Commission on Tourism (Commission) and its direct-support organization, VISIT FLORIDA, have functioned as the state's tourism promotion and marketing arm. They have been responsible for maintaining the vitality of an industry segment that, at a minimum, provides approximately 20 percent of our state sales tax revenues.

Although there have been three OPPAGA reviews of the ability of the Commission and VISIT FLORIDA to comply with outcome measures and performance standards statutorily required for their reviews, there has not been a formal legislative committee review to determine overall compliance with requirements of the law nor to determine if, after 10 years of existence, provisions of the law need to be updated.² Included in this review should be an examination of the short-term and long-term vision for the state's tourism marketing and promotion initiatives that have been identified by these entities so that the Legislature can provide input, if needed, and can monitor these efforts and their impact on the vitality of the state's tourism industry and the need, if any, for additional public funding to maintain or increase the state's tourism market share.

Another area for review involves the Commission and VISIT FLORIDA's hurricane recovery efforts related to tourism. Prior to the Regular 2005 Legislative Session, the House Tourism Committee held both a meeting and a hearing on the impact of the 2004 hurricanes on the tourism industry and infrastructure in Florida and proposals for addressing the short-term and long-term needs of the state and impacted local communities. Although no funding was specifically appropriated to assist in the tourism initiatives proposed to keep tourists and convention business coming to the state, House leadership was instrumental in working with the Governor to secure \$4.75 million in increased state revenue to help bolster Florida's tourism marketing campaign. These funds, along with additional private sector revenues, were to be used to enhance the state's marketing program to reach both leisure travelers and meeting planners, to encourage meetings and conventions, and to provide grant funds for areas hardest hit by

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The issues to be reviewed in the report are diverse. Yet, they all relate to how well the state's public-private tourism partnership has performed and is performing as the state's tourism marketing and promotion entity. They also relate to identifying what, if anything, needs to be done to assist in keeping the state the premier tourist destination.

Methodology

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- Review of previous legislative committee and OPPAGA reports on the public-private partnership;
- Review of partnership contracts;
- Review of marketing plans, proposals, and budgets;
- Interviews of VISIT FLORIDA staff and members of the board of directors, both over the telephone and through written responses to a questionnaire;³
- Interview of OTTED staff; and,
- Interview through a questionnaire of persons in select areas of the state who are knowledgeable of and involved in the tourism industry in their local communities.

Structure of Report

The report consists of the following sections, the first four of which contain the findings of the report and the final section which contains the conclusions based upon the findings:

- **Tourism Public-Private Partnership** which briefly reviews the creation, responsibilities, staffing, and funding of the public-private partnership, reviews the statutory relationship with the Governor's Office of Tourism, Trade and Economic Development (OTTED), and provides information on how the partnership has changed since its creation, as well as data on the impact on tourism in and to Florida.
- **Compliance** which addresses issues related to the Florida Commission on Tourism and VISIT FLORIDA's compliance with current law and contracts with OTTED.

³ See Appendix A for the questionnaire.

- **Use of Emergency Funds and Supplemental Funding for Hurricane Recovery** which addresses how the funds were used and any measurable impacts from the use of those funds.
- **Issues Identified** which provides a compilation of issues identified through interviews and the questionnaire that potentially require a change in law, funding, or emphasis in the state's tourism promotion efforts as well as issues identified in the Commission's Strategic (Marketing) Plan for 2006 -2009 that might require legislative action.
- **Conclusions** which provides conclusions based upon the previous sections of the interim project report.

Tourism Public-Private Partnership

This section of the report will briefly review the creation, responsibilities, staffing, and funding of the public-private partnership, review the statutory relationship with the Governor's Office of Tourism, Trade and Economic Development (OTTED), and provide information on how the partnership has changed since its creation, as well as data on the partnership's impact on tourism in and to Florida.

Florida Commission on Tourism/VISIT FLORIDA--Public-Private Partnership

Creation and Purpose

With the dismantling of the Department of Commerce in 1996, the responsibilities for the state's tourism promotion and marketing efforts was placed in a statutorily created public-private partnership: the Florida Commission on Tourism (Commission) and its direct support organization, the Florida Tourism Industry Marketing Corporation (now doing business as VISIT FLORIDA).⁴ No later than January 1, 1997, the newly created Governor's Office of Tourism, Trade and Economic Development (OTTED) was required to contract out all tourism promotion and development responsibilities to the Commission which, in turn, could contract with its direct-support organization. The Commission was required to be the contract administrator for its contract with its direct-support organization. The partnership agreement or contract with the Commission that is administered by OTTED was required to contain performance standards and sanctions for noncompliance with the contract. OTTED was also required to submit a unified budget request for all tourism, trade, and economic development areas under its jurisdiction.⁵

The Commission is required by law to consist of 35 members including the Governor, who chairs the Commission, a Senator, and a Member of the House of Representatives, as ex-officio members, and 32 other members who are recognized tourism industry leaders appointed by the Governor. Seventeen of the tourism industry members, who serve for four years and are subject to Senate confirmation, are to be appointed in such a manner as to equitably represent all geographic areas of the state, with no fewer than two and no more than four members from any of the following six regions:

⁴ The 1991 Legislature created the Florida Tourism Commission in Chapter 91-31, L.O.F., and gave the Commission a year to collect empirical data and answer specific policy questions on the state's role in promoting itself as a tourist destination, including the question of how to fund the promotion based on an industry-standard plan. In 1992, the Legislature made the Commission a permanent 17-member body and made it administratively adjunct to the Department of Commerce. The Commission was to advise the Division of Tourism on tourism promotion and marketing. Later, the Commission would recommend the privatization of tourism activities to free it from the inability to quickly respond to market changes and to provide more money for tourism initiatives through other sources. In 1995, the House Tourism and Cultural Affairs Committee began discussing changes to the way in which the state tourism initiatives were handled. In 1996, the Committee spearheaded the efforts toward privatization. The industry advocated for the change and pledged \$6 million for matching state dollars even before legislation was passed.

⁵ OTTED was also required to contract with Enterprise Florida, the Florida Sports Foundation, and other specified entities responsible for economic development. See Ch. 96-320, L.O.F. These requirements are still in effect.

- Region 1, composed of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.
- Region 2, composed of Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee, Taylor, and Union Counties.
- Region 3, composed of Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and Volusia Counties.
- Region 4, composed of Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.
- Region 5, composed of Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.
- Region 6, composed of Broward, Dade, Martin, Monroe, and Palm Beach Counties.⁶

The purpose of the Commission is to be the administrative policy link between the public and the private sector tourism promotion partners. The purpose in law states that the Commission is to:

- Oversee the state's efforts to increase the positive impact of tourism, including increased employment for state citizens, to all sectors of the economy through effective marketing activities;
- Continually upgrade the image of Florida as a quality destination;
- Promote tourism objectives with all geographic, socioeconomic, and community sectors considered equitably; and,
- Judge its efforts by the same standards of accountability and integrity as those used by successful, respected private sector businesses.⁷

VISIT FLORIDA, composed of the private and non-state public sector members of the Commission, is the private side of the public-private partnership and is charged with carrying out the policies set forth by the public partner in its 4-year marketing plan and other provisions of law. It operates as the umbrella organization under which the state's tourism marketing campaigns are coordinated. The mission of VISIT FLORIDA is to market and facilitate travel to and within Florida for the benefit of its residents, economy, and travel and tourism industry.⁸

⁶ See s. 288.1223, F.S., for additional criteria for the 17 members and the additional 15 members. The criteria for the 17 members, who serve four year terms, has not changed since 1996. The additional tourism-industry-related members, who serve two year terms, has increased in number from 11 to 15 with the addition of a representative of AAA, youth travel industry, statewide association representing restaurants, and space tourism. Also, the number of representatives from county destination marketing organizations decreased from 3 to 2 but a representative of the statewide organization representing this group was added.

⁷ See s. 288.1223(1), F.S.

⁸ See s. 288.1224(1), F.S.; VISIT FLORIDA's four-year, Strategic Plan 2006 - 2009, approved by the Commission and the board of directors of VISIT FLORIDA in December 2005.

According to the recently adopted Strategic Plan 2006 – 2009, VISIT FLORIDA's purpose is now fourfold:

- Customers – become the trusted source that triggers the desire to vacation in Florida and utilize VISIT FLORIDA as the facilitator for the search and planning process.
- Partners – provide priority access to valued cooperative and dedicated tourism marketing and research programs which accelerates their business growth.
- Florida tourism industry – be the umbrella marketing and research mechanism that promotes the fun, fantasy and diversity of the state while enhancing the industry's economic growth.
- Public sector – secure additional public funding and continue to deliver measurable economic growth in the state's tourism segment while increasing industry participation in and financial contribution to the state's marketing and research programs.⁹

Responsibilities, Staffing, and Funding of the Partnership

- Florida Commission on Tourism

Responsibilities:

The Commission, with the Governor as its chairman, is vested with the authority to make policy decisions on promoting and developing tourism in Florida. By law, the Commission is given the authority and responsibility to do, among other things, the following:

- Contract with a direct support organization created under s. 288.1226, F.S., to execute the tourism marketing and promotion services, functions, and programs for this state including, but not limited to, the activities prescribed in the 4-year marketing plan. Serve as the contract administrator for the contract.
- Advise on domestic and international tourism promotion programs for the state.
- Be responsible for the prudent use of all public and private funds and ensure that the use of the funds is in accordance with all applicable laws, bylaws, and contractual requirements.
- Recommend the tenets of a 4-year marketing plan to sustain tourism growth, which shall be annual in construction and ongoing in nature. The plan must include an emergency response component and research designs; provisions for the direct-support organization to reach the targeted one-to-one match of private to public contributions within four years after plan implementation; specific provisions for directing tourism promotion resources toward promotion and development of nature-based

⁹ Ibid., p. 1.

and heritage tourism with provisions addressing these tourism initiatives in rural communities; and specific performance standards and measurable outcomes for the Commission and the direct-support organization.

- Develop an operational structure to carry out the marketing plan.
- Undertake or commission marketing research and advertising research studies.
- Develop a budget in conjunction with the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to provide for the Commission's operations and its contract with a direct-support organization created to carry out the programs outlined in the Commission's 4-year marketing plan.
- Establish and operate tourism offices in foreign countries in the execution of its responsibilities for promoting the development of tourism and contract with its direct-support organization to establish and administer these offices.
- Establish a cooperative advertising matching grants program and a minority convention grants program.

The Commission contracts with VISIT FLORIDA to implement the four-year marketing plan and to perform other tasks related to tourism. The contract, referred to as the "operating agreement," is a continuing framework for an ongoing public-private partnership, and it has no fixed duration. Its terms are to be periodically examined to determine needed changes to accommodate changes in law or other circumstances. It did have a nominal period of five years from the date of ratification with an automatic yearly continuation unless written notice was given to modify the contract. The contract outlines the responsibilities of VISIT FLORIDA which include, but are not limited to, preparation of the four-year marketing plan for approval by the Commission; preparation of other statutorily required reports of the Commission for Commission approval; administration of the two grant programs statutorily assigned to the Commission; submission of quarterly reports, annual audits, and budgets; maintenance of effort requirements; private sector financial participation; and visitor research methodology. For more detailed information on the contract, see Appendix C and the compliance charts in the compliance section of the report.

Staffing:

The Commission is staffed by its direct-support organization, and the President and CEO of the organization serves as the Executive Director of the Commission. The Commission is statutorily prohibited from hiring staff.¹⁰

Funding:

The Commission receives funding primarily from the Tourism Promotional Trust Fund. Additional revenue has been provided through General Revenue funding. This funding

¹⁰ See s. 288.1224(10), F.S.

provides the state portion of resources used to promote and market the state as a tourist and convention destination. The state funding is matched on a 1:1 basis by private funding through VISIT FLORIDA.

The Tourism Promotional Trust Fund, created by s. 288.122, F.S., is within OTTED. The money deposited into the trust fund can only be used to support the authorized activities and operations of the Commission and to support tourism promotion and marketing activities, services, functions, and programs administered by the Commission through contract with VISIT FLORIDA. The source of funding for the trust fund is 15.75 percent of the \$2 per day rental car surcharge authorized by s. 212.0606, F.S.

All appropriated funding is released to the Commission by OTTED on a quarterly basis upon submission of required quarterly reports including an invoice for payment. The schedule of payment is outlined in the partnership agreement. The funds received are a reimbursement for work that has already been performed by VISIT FLORIDA on behalf of the Commission.

- VISIT FLORIDA

Responsibilities:

VISIT FLORIDA, whose board is chaired by the vice chair of the Commission, operates as the umbrella organization under which the state's tourism marketing campaigns are coordinated. It is governed by many statutory and contractual requirements.¹¹ Its primary responsibilities include the following:

- Administering domestic and international advertising campaigns designed to market the entire state as a tourism destination;
- Conducting domestic and international marketing activities;
- Managing the state's welcome centers;
- Conducting research on tourism and travel trends;
- Providing for a plan for participation in the corporation that provides additional funding for the administration and duties of the corporation; and
- Ensuring a 1:1 private sector to public sector investment match.

The four-year marketing plan implemented by VISIT FLORIDA has the following goals which govern most of their activities:

- Flatten seasonality,
- Increase spending by tourists,
- Attract Florida residents,
- Establish recognition,

¹¹ See Appendix C for the Operating Agreement between the Commission and VISIT FLORIDA and Appendix B for the Partnership Agreement between the Commission and OTTED. Also, see the compliance charts on pp. 15-23.

- Influence drive markets,
- Increase revenue from the private sector, and
- Maintain on-season tourism.¹²

VISIT FLORIDA has six departments that have primary responsibility for fulfilling all the responsibilities cited above: marketing, sales, partner development, new product development, visitor services, and research.¹³ In addition to these departments, VISIT FLORIDA has a President and Chief Executive Officer; a Chief Operating Officer; a Chief Financial Officer with responsibility for human resources, controller, and information technology; and a Vice President of Government Relations who also serves as General Counsel.¹⁴

Staffing:

In 1996, VISIT FLORIDA started out with 78 staff. This did not include welcome center staff who were temporarily transferred to the Department of Transportation from the old Department of Commerce.¹⁵ The salaries and benefits of these staff were paid for by the Commission on Tourism until they became employees of VISIT FLORIDA. Currently, VISIT FLORIDA has 113 staff of which 41 are staff at the state's five welcome centers and two serve as field office representatives.¹⁶

VISIT FLORIDA does not lease any buildings in foreign countries; however, it does have field offices representing the state's interests in Canada, the United Kingdom, Germany, Continental Europe, and Latin America. VISIT FLORIDA contracts with firms in the United Kingdom and Canada to provide sales and public relations services. These services are operated out of the firms offices. The remainder of field offices operates out of the residences of the representatives. VISIT FLORIDA contracts only for public relations services in Germany. It has an employee in Paris who is responsible for sales activities in all of Continental Europe and an employee in Coral Gables who is responsible for sales and public relations work with Latin America. The Latin America office contracts with individuals in Argentina, Brazil, and Mexico to assist in public

¹² "Quarterly Report," by VISIT FLORIDA, December 28, 2005, pp. 1-3.

¹³ The marketing department is responsible for direct marketing and advertising, promotions, and public relations. The sales department is responsible for national and international sales efforts. The partner development department is responsible for encouraging industry members to pay annual membership fees in exchange for certain preferential treatment and for forming strategic alliances with businesses. The new product development department's primary function is to develop and promote vertical markets, such as nature-based tourism, cultural heritage tourism, and rural tourism. The visitor services department operates five welcome centers and provides travelers with information via certified welcome center specialists, brochures, window and lobby displays, and seasonal festivals. The research department tracks and monitors state, national, and international travel trends; produces visitor estimates and profiles and the annual Florida Visitor Study; and performs other research and studies as needed.

¹⁴ See Appendix D for the VISIT FLORIDA organizational chart.

¹⁵ The five welcome centers are located at I-10 west of Pensacola, U.S. 231 near Campbellton, I-75 at Jennings, I-95 north of Yulee, and in the State Capitol in Tallahassee.

¹⁶ See Appendix E for a chart indicating the number of staff from FY 1996-97 through FY 2005-06.

relations and sales.¹⁷ Finally, the continuation of or the need for additional domestic or international field offices are reviewed periodically by VISIT FLORIDA and its board of directors to address changes in the market. An example of this is the decision of the board of directors of VISIT FLORIDA and the Commission to have a presence in China in 2007.¹⁸

Funding:

The public funding for VISIT FLORIDA is based upon the quarterly payments outlined in the contract between the Commission and OTTED. VISIT FLORIDA has already expended resources for programs and services and the quarterly payment serves as a reimbursement for services already rendered.

VISIT FLORIDA was required by law to match the public dollars with a 1:1 match within four calendar years of the date of implementation of the first four-year marketing plan. The first plan, developed after the creation of the public-private partnership, was dated December 31, 1996. The private match is calculated from four categories:

- Direct cash contributions, which include, but are not limited to, cash derived from strategic alliances, contributions of stocks and bonds, and partnership contributions.
- Fees for services, which include, but are not limited to, event participation, research, brochure placement, and transparencies.
- Cooperative advertising, which is the value based on cost of contributed productions, air time, and print space. (Cooperative advertising is often a 3:1 match requirement.)
- In-kind contributions, which include, but are not limited to, value of strategic alliance services contributed, value of loaned employees, discounted service fees, items contributed for use in promotions, and radio or television air time or print space for promotions.

In FY 2004-05 the public revenues for the tourism efforts of VISIT FLORIDA were \$25.6 million and the private revenues were \$65.5 million. For information on the public and private revenues from FY 1996-97 through FY 2004-05 see Appendix F.

See the discussion below on the new contract between the Commission and OTTED and the release of funds for potential issues that might affect the partnerships ability to perform.

¹⁷ VISIT FLORIDA currently contracts with an individual in Japan; however, there are no active shows at this time and the small contract is to maintain a presence in the country.

¹⁸ Strategic Plan 2006 – 2009, VISIT FLORIDA, December 2005.

Relationship with Governor's Office on Tourism, Trade and Economic Development

- Florida Commission on Tourism

OTTED has a staff person who serves as the contract manager for the contract with the Commission. Additionally, OTTED has legal staff who is responsible for changes in contract language.

Through a contract with the Governor's Office of Tourism, Trade, and Economic Development, the Commission carries out its purpose and duties and responsibilities assigned by statute. The contract also requires the submission of various reports on a quarterly and annual basis that are in addition to those required by law. These reports are required of the Commission but are to be prepared by VISIT FLORIDA on its behalf. The quarterly payment schedule is outlined with the caveats that payment is contingent upon meeting the quarterly requirements as well as the availability of funds. The contract also includes performance measures that are included in the Implementing Bill as part of the requirements.

The Commission must approve all contracts. The executive committee of the Commission can act on behalf of the Commission, if necessary.

Once a contract is signed, then money can be released to VISIT FLORIDA pursuant to the contract with the Commission.

For some of the contract measures related to compliance see the section of charts on compliance on pages 15 through 23.

In addition to the primary responsibilities under the contract, there are requirements related to strategic partnerships. These include working with other OTTED partners and state agencies, when appropriate, participating in strategy meetings with partners, and seeking projects and promotional opportunities in which one or more partner can be involved.¹⁹

An issue that has been raised by the Commission is the timeliness in which OTTED presents the contracts for consideration by the partnership. Contracts, not even first drafts, are ready for consideration by the beginning of the fiscal year. In the past, contracts have been prepared and negotiated and ready for consideration by the Commission no later than the September quarterly meeting with disbursement of funds following shortly thereafter. This year a substantially rewritten contract was not provided for consideration until September 17, 2005. Major points of the contract were negotiated and a final contract was received from OTTED on November 4, 2005. The contract was sent to the Commission's executive committee on November 7, 2005 and was approved by the committee and signed on November 10, 2005. The fax of the contract was signed by OTTED on November 12, 2005 with the actual contract not being signed until

¹⁹ See Appendix B for the Partnership Agreement between the Commission and OTTED.

December 5, 2005. The first quarter payment applied for on September 30, 2005 was received in two payments on November 17, 2005 and November 21, 2005.

Some commissioners and staff expressed concern about the need for contracts being ready much sooner so that negotiations, if needed, could take place and be resolved, and funding be released in a timely fashion to avoid any possibility of a cash flow problem.

The contract provides for a six month carry forward without a new signed contract to enable the continuation of business and the release of funds. This year, however, funds were not released until there was a signed contract even though quarterly report requirements had been met.

● VISIT FLORIDA

The Commission through VISIT FLORIDA is required to prepare the reports and perform many of the duties outlined in the contract between OTTED and the Commission. In fact, because the Commission can only use staff of VISIT FLORIDA, that staff negotiates contracts, prepares reports, etc., as needed by the Commission.

OTTED does not control the contract between the Commission and VISIT FLORIDA but attempts to exercise control through its contract with the Commission.

Impact of Tourism Public-Private Partnership

The increased dollar value of the state's tourism initiatives has grown under the public-private partnership. Because of the greater influx of dollars, both public and private, the promotion of tourism to Florida has been expanded through sales, advertising, promotions, public relations and visitor services programs both domestically and internationally. This has assisted local tourism partners to expand their reach in advertising and promotion through cooperative advertising, participation in other media and promotion events, and in other activities available through the partnership program. With 85% of the partners being small businesses, all aspects of the industry in Florida are assisted in ways that they could otherwise not afford. The state has also benefited through increased revenues associated with increased tourism and through the expertise of the public-private partnership in marketing the state effectively in times of crisis, such as after September 11, 2001, and after the hurricanes of 2004 in preparation for 2005. OPPAGA Report No. 04-82 states that after September 11, 2001, Florida's tourism industry recovered at a faster pace than the rest of the nation. The report went on to state that the rebound was assisted by the Legislature providing additional emergency funding for tourism promotion and to the increased marketing efforts of VISIT FLORIDA.²⁰

²⁰ *VISIT FLORIDA Improving Performance Measures and Expanded Rural Partnership Activities*, OPPAGA Report No. 04-82, December 2004. The report stated that it was too early to know the impact of efforts being used by VISIT FLORIDA to counter the four hurricanes in 2004. At that time, the use of the \$2 million in emergency funding had been authorized and expended. No additional funding had been provided. The additional funding would be committed in January 2005; however, the actual receipt of funding would not occur until June 2005.

For example, Florida's tourism program under the Department of Commerce was valued at \$14 million in FY 1995-96. With the new public private partnership, in FY 1996-97, the state provided \$18 million and the private sector invested \$23.8 million for a program worth \$41.8 million. In FY 2004-05, the state invested \$25.6 million and the private sector invested \$65.5 million for a program worth \$91.1 million.²¹ Additionally, in 1996, with the creation of VISIT FLORIDA, it had 407 private sector partners and in FY 2004-05 that number has grown to 3,432.²² Direct travel-related employment in the state has increased from 732,800 in 1995 to 912,700 in 2004.²³ Over the last five years, the number of visitors has increased from 72.8 million to almost 80 million, and the sales tax collection attributed to tourism-related expenditures has grown from \$2.9 billion to \$3.4 billion.²⁴

Local option tourist-related taxes have also increased as have the number of counties levying the taxes. These taxes have grown from \$358.3 million in FY 1999-2000 to \$399.1 million in FY 2003-04. As of September 2004, there were 53 counties levying the tax. After November 2004, there were 57 out of the 67 counties levying the local option tax. These taxes are used by local governments to help promote tourism in their local areas and provide a mechanism to provide funding to co-op with the state to leverage more advertising for money spent.²⁵

Finally, the emphasis in assisting rural counties in recognizing their tourism assets and in how to effectively market them has been a part of the 4-year marketing plan and, therefore, a part of VISIT FLORIDA's efforts through its New Product Development Department. This has helped to expand the economic development base of these communities while expanding the tourism product for the state. Twenty-six of the 33 rural counties have been assisted through this program and another, Walton County, is scheduled for the upcoming year.

Compliance

Both the Commission on Tourism and VISIT FLORIDA have met their statutorily required responsibilities.²⁶ Please see the charts following the discussion of compliance with performance standards for details on other statutory and contractual responsibilities and compliance. For FY 2004-05, the annual standard for the performance measures

²¹ See Appendix F for a chart of public and private funding over a ten year period.

²² VISIT FLORIDA 2004-2005 Annual Report, VISIT FLORIDA, p. 24.

²³ See Appendix G for a chart on direct tourism related employment.

²⁴ See Appendix H for a chart showing the numbers of visitors over the last five years and Appendix I for charts on tourism-related taxable sales and tourism-related sales tax collections.

²⁵ See Appendix J for charts depicting both State Fiscal Year and County Fiscal Year collections for local option tourist-related taxes.

²⁶ Neither the Commission nor VISIT FLORIDA has the required number of gubernatorial appointees. This is not the responsibility of either entity. Names have been submitted for the Governor's review. Additionally, one position that is required for a representative of a statewide organization representing the hotel industry might not be able to be filled until there is legislative clarification. See the discussion contained in the report and the discussion of conclusions.

required in the Legislative Implementing Bill and in the contract with OTTED have been met or exceeded with the following exceptions:

- Resident travel was 600,000 below the FY 2004-05 standard. According to VISIT FLORIDA, the pattern of decrease suggests that resident travel was affected first by the hurricanes and then later in the year by gas prices.
- Local option tourist-related tax was 44.6 million below the standard because figures do not include the last quarter numbers which are not available from the Department of Revenue at this time.
- Number of leads is down by 229,403 (a little less than half).²⁷ According to VISIT FLORIDA, consumer demand has changed to using the website rather than using the toll-free number for vacation information. The mailing of printed material has decreased while website hits have increased.
- Number of private sector partners was 276 partners under the standard. The FY 2004-05 number of partners was below the FY 2003-04 number of partners by 96. According to VISIT FLORIDA, the loss of partners was due to hurricanes and related economics.
- Strategic alliance programs revenue was below the standard by \$28,905 and was below the FY 2003-04 revenue by \$8,496. According to VISIT FLORIDA, the difference between the two fiscal years was due to the loss of one strategic alliance partner due to its financial difficulties.²⁸

According to the contract between the Commission and OTTED, acceptable reasons for not meeting a performance standard include, but are not limited to, uncontrollable circumstances, unfavorable external economic conditions, quarterly variations, establishment of new processes, including the transfer of programs, and allocation of resources to meet priority demands as determined by OTTED.²⁹

The standards for FY 2005-06 are the same as those for the fiscal years cited above. For a complete listing of the standards and compliance for the two previous fiscal years and the first quarter of FY 2005-06, please see Appendix K.

²⁷ The word “leads” refers to the number of requests for specific written information based upon a call to action from print, radio, or television advertisement.

²⁸ See Appendix K.

²⁹ OTTED Agreement OT-06-003, p.4.

**Is the Florida Commission on Tourism meeting the statutory requirements
in ss. 14.2015, 288.012, 288.017, 288.124, 288.1223, 288.1224, 288.12265, & 288.1227, F.S.?**

Organizational Requirements		Compliant	Non-Compliant
Created within the Office of Trade, Tourism, and Economic Development.		✓	
Purpose of Commission is to increase positive impact of tourism, including increased employment for state citizens, to all sectors of the economy through effective marketing activities; to continually upgrade the image of Florida as a quality destination; to promote tourism objectives with all geographic, socioeconomic, and community sectors considered equitably; and to judge its efforts by the same standards of accountability and integrity as those used by successful, respected private sector businesses.		✓	
Be composed of 35 members, of which 32 are industry representatives as specified in s. 288.1223, F.S. (Note: <i>There are vacancies on the Commission. Names have been submitted to the Governor. The Commission is awaiting a decision. This impacts the membership on the direct-support organization, as well.</i>)		✓	
Commission shall meet at least quarterly.		✓	
Governor shall serve as chair. Commission shall annually elect member to serve as vice-chair who shall serve as chair in absence of Governor.		✓	
Commission may appoint an executive committee and advisory committees. Advisory committees can include persons who are not members of the Commission.		✓	
Members receive only per diem and travel expenses while in performance of duties.		✓	
Members must file a disclosure of financial interests pursuant to s. 112.3145, F.S.		✓	
Requirements		Compliant	Non-Compliant
Contract with a direct-support organization created under s. 288.1226, F.S., to execute the tourism marketing and promotion services, functions, and programs for this state including, but not limited to, the activities prescribed in the 4-year marketing plan. Serve as the contract administrator.		✓	

**Is the Florida Commission on Tourism meeting the statutory requirements
in ss. 14.2015, 288.012, 288.017, 288.124, 288.1223, 288.1224, 288.12265, & 288.1227, F.S.?**

Requirements		
Advise the Office of Tourism, Trade, and Economic Development (OTTED) and the direct-support organization regarding the domestic and international tourism promotion programs for this state.	✓	
Shall be responsible for the prudent use of all public and private funds and shall ensure that the use of such funds is in accordance with all applicable laws, bylaws, and contractual requirements.	✓	
Shall recommend the tenets of a 4-year marketing plan to sustain tourism growth. The plan shall include an emergency response component and research component; provisions for the direct-support organization to reach the targeted one-to-one match of private to public contributions within 4 calendar years after the implementation date of the plan; and, recommendations regarding specific performance standards and measurable outcomes for the Commission and the direct-support organization. The plan shall incorporate nature-based tourism and heritage tourism components, shall include specific provisions for directing tourism promotion resources to such areas, and shall address promotion and development of such areas in rural communities.	✓	
Shall develop an operational structure to carry out the marketing plan recommended by the Commission.	✓	
Shall develop a budget, in conjunction with OTTED, and in keeping with the Commission's 4-year marketing plan, for the operation and activities of the Commission and for the provision of tourism promotion programs, services, and functions through a contract with a direct-support organization created for such purposes. The budget shall be submitted to the Governor.	✓	

**Is the Florida Commission on Tourism meeting the statutory requirements
in ss. 14.2015, 288.012, 288.017, 288.124, 288.1223, 288.1224, 288.12265, & 288.1227, F.S.?**

Requirements		Compliant	Non-Compliant
Authorized to establish and operate tourism offices in foreign countries in the execution of its responsibilities for promoting the development of tourism. Authorized to contract with its direct-support organization to establish and administer such offices. <i>(In lieu of foreign offices, the corporation has sales and public relations field offices for Canada, the United Kingdom, Germany, Continental Europe, and Latin America. The only non-contract offices are Latin America and Continental Europe which are operated by corporation employees from their residences.)</i>		✓	
May undertake or commission marketing research and advertising research studies. (This is done through the direct-support organization.)		✓	
Responsibility for 5 Welcome Centers is assigned to Commission which shall contract with its direct-support organization to employ all Welcome Center staff and to administer and operate the centers. Commission shall be responsible for routine repair, replacement, or improvement and the day-to-day management of interior areas occupied by the Welcome Centers.		✓	
Establish a cooperative advertising matching grants program and a minority convention grants program. Establish guidelines governing the award of grants and the administration of the program. Each grant program allocation may not exceed \$40,000. Recommendations are made by the Commission to OTTED which has final authority over selection.		✓	
Assists OTTED, along with other public-private partnerships, in preparing an annual report to the Legislature on the state of the business climate in Florida and on the state of economic development in Florida which will include the identification of problems and the recommendation of solutions.		✓	

**Is the Florida Commission on Tourism meeting the statutory requirements
in ss. 14.2015, 288.012, 288.017, 288.124, 288.1223, 288.1224, 288.12265, & 288.1227, F.S.?**

Accountability		Compliant	Non-Compliant
Submit annual report to Governor, Legislature and OTTED by December 1 including for the Commission and its direct-support organization information on operations and accomplishments for the year, business and operational plan and tourism marketing plan, assets and liabilities of the direct-support organization, and a copy of the annual financial and compliance audit. (OTTED requires submission by November 30.)		✓	
Shall, through its direct-support organization, document that the performance measures required in the Implementing Bill and in the contract with OTTED have been achieved.		✓	
On July 1 of each year, Commission shall provide OTTED with written certification that all fiscal controls and audit mechanisms required by law are implemented for the Commission and its direct-support organization. (Contract Requirement)		✓	
On July 1 of each year, Commission shall provide OTTED with written certification that it has in place an Operating Agreement (contract) with its direct-support organization.		✓	
On July 1 of each year, Commission shall provide written certification that it has in place an agreement with the Department of Transportation regarding the operation of the Welcome Centers which conforms to requirements of s. 288.12265, F.S. (Contract Requirement)		✓	
Shall, through its direct-support organization, provide OTTED with quarterly reports containing an update on Performance Measure compliance, items specified in s. 288.1226(7), F.S., and other additional documents required by the partnership agreement between the Commission and OTTED. See the VISIT FLORIDA compliance requirements for details on requirements of s. 288.1226(7), F.S., reports. (Contract requirement)		✓	
Shall provide, through its direct-support organization, an annual report on the incremental economic impact of marketing, sales, and visitors services programs measured during the year. (Contract requirement)		✓	
On or before December 31 of each year, shall provide OTTED with recommended amendments to the Four-Year Marketing Plan. (Contract requirement)		✓	

Is VISIT FLORIDA meeting the statutory requirements in ss. 14.2015, 288.065, 288.0657, 288.1224, 288.1226, 288.12265, F.S.?

Organizational Requirements		Compliant	Non-Compliant
Be established by the Florida Commission on Tourism, no later than July 31, 1996, as the Florida Tourism Industry Marketing Corporation, a direct-support organization for the Commission. (Currently doing business as VISIT FLORIDA)		✓	
Be a corporation not for profit, as defined in s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, and incorporated under provisions of chapter 617 and approved by the Department of State.		✓	
Be organized and operated exclusively to request, receive, hold, invest, and administer property and to manage and make expenditures for the operation of the activities, services, functions, and programs of this state which relate to the statewide, national, and international promotion and marketing of tourism.		✓	
Be certified by the Commission and OTTED as operating in a manner consistent with the policies and goals of the Commission and its long-range marketing plan.		✓	
Shall not be considered an agency for the purposes of Chapters 120, 216, and 287, F.S.; ss. 255.21, 255.254, F.S., relating to leasing of buildings; ss. 283.33 and 283.35, F.S., relating to bids for printing; s. 215.31, F.S.; and parts I, II, and IV-VIII of Chapter 112, F.S.		✓	
Shall be subject to the provisions of Chapter 119, F.S., relating to public meetings, and those provisions of Chapter 286, F.S., relating to public meetings and records.		✓	
Be governed by board of directors, which shall be composed of 31 tourism-industry-related members, appointed by Commission from its membership. Commission vice chair shall serve as board of directors chair. (Commission vacancies awaiting appointment by Governor.)		✓	
Powers & Duties		Compliant	Non-Compliant
May make and enter into contracts and assume such other functions as are necessary to carry out the provisions of the Commission's 4-year marketing plan and the corporation's contract with the commission which are not inconsistent with this or any other provision of law.		✓	

**Is VISIT FLORIDA meeting the statutory requirements in
ss. 14.2015, 288.065, 288.0657, 288.1224, 288.1226, 288.12265, F.S.?**

Powers & Duties		Compliant	Non-Compliant
May develop a program to provide incentives and to attract and recognize those entities which make significant financial and promotional contributions towards the expanded tourism promotion activities of the corporation.		✓	
May commission and adopt, in cooperation with the Commission, an official tourism logo to be used in all promotional materials directly produced by the corporation. The corporation may establish a cooperative marketing program with other public and private entities which allows the use of this logo in tourism promotion campaigns which meet the standards of the Commission and OTTED for which the corporation may charge a reasonable fee.		✓	
May sue and be sued and appear and defend in all actions and proceedings in its corporate name to the same extent as a natural person.		✓	
May adopt, use, and alter a common corporate seal. Such seal must always contain the words "corporation not for profit."		✓	
Shall elect or appoint such officers and agents as its affairs shall require and allow them reasonable compensation.		✓	
Shall hire and establish salaries and personnel and employee benefit programs for such permanent and temporary employees as are necessary to carry out the provisions of the Commission's 4-year marketing plan and the corporation's contract with the Commission which are not inconsistent with this or any other provision of law.		✓	
Shall employ all welcome center staff.		✓	
Shall provide staff support to the Commission. The president and chief executive officer of the Florida Tourism Industry Marketing Corporation shall serve without compensation as the executive director of the Commission.		✓	

**Is VISIT FLORIDA meeting the statutory requirements in
ss. 14.2015, 288.065, 288.0657, 288.1224, 288.1226, 288.12265, F.S.?**

Powers & Duties		Compliant	Non-Compliant
May adopt, change, amend, and repeal bylaws, not inconsistent with law or its articles of incorporation, for the administration of the provisions of the Florida Commission on Tourism's 4-year marketing plan and the corporation's contract with the Commission.		✓	
May conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States or any foreign country. Where feasible, appropriate, and recommended by the 4-year marketing plan developed by the Commission, the corporation may collocate the programs of foreign tourism offices in cooperation with any foreign office operated by any agency of this state. <i>(In lieu of foreign offices, the corporation has sales and public relations field offices for Canada, the United Kingdom, Germany, Continental Europe, and Latin America. The only non-contract offices are Latin America and Continental Europe which are operated by corporation employees from their residences.)</i>		✓	
May appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or federal government.		✓	
May request or accept any grant, payment, or gift, of funds or property made by this state or by the United States or any department or agency thereof or by any individual, firm, corporation, municipality, county, or organization for any or all of the purposes of the Commission's 4-year marketing plan and the corporation's contract with the Commission that are not inconsistent with this or any other provision of law. Such funds shall be deposited in a bank account established by the corporation's board of directors. The corporation may expend such funds in accordance with the terms and conditions of any such grant, payment, or gift, in the pursuit of its administration or in support of the programs it administers.		✓	
The corporation shall separately account for the public funds and the private funds deposited into the corporation's bank account.		✓	
Shall establish a plan for participation in the corporation which will provide additional funding for the administration and duties of the corporation.		✓	

**Is VISIT FLORIDA meeting the statutory requirements in
ss. 14.2015, 288.065, 288.0657, 288.1224, 288.1226, 288.12265, F.S.?**

Powers & Duties		Compliant	Non-Compliant
In the performance of its duties, may undertake, or contract for, marketing projects and advertising research projects.		✓	
In addition to any indemnification available under chapter 617, the corporation may indemnify, and purchase and maintain insurance on behalf of, directors, officers, and employees of the corporation against any personal liability or accountability by reason of actions taken while acting within the scope of their authority.		✓	
Shall administer and operate the welcome centers for the Commission. Pursuant to a contract with the Department of Transportation, the Commission shall be responsible for routine repair, replacement, or improvement and the day-to-day management of interior areas occupied by the welcome centers. All other repairs, replacements, or improvements to the welcome centers shall be the responsibility of the Department of Transportation.		✓	
OTTED shall ensure that the contract between the Commission and the Commission's direct-support organization contains a provision to provide the data on the visitor counts and visitor profiles used in revenue estimating, employing the same methodology used in fiscal year 1995-1996 by the Department of Commerce. OTTED and the Commission must advise and consult with the Consensus Estimating Conference principals before making any changes in methodology used or information gathered.		✓	
Other Statutory Responsibilities		Compliant	Non-Compliant
<u>Rural Infrastructure Fund--</u> OTTED, in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission, as appropriate, shall review applications and evaluate the economic benefit of the projects and their long-term viability.		✓	

**Is VISIT FLORIDA meeting the statutory requirements in
ss. 14.2015, 288.065, 288.0657, 288.1224, 288.1226, 288.12265, F.S.?**

Other Statutory Responsibilities		Compliant	Non-Compliant
<p><u>Florida rural economic development strategy grants.--</u> Enterprise Florida, Inc., and VISIT FLORIDA, shall establish criteria for reviewing grant applications. The International Trade and Economic Development Board of Enterprise Florida, Inc., and VISIT FLORIDA, shall review each application for a grant and shall submit annually to the Office of Tourism, Trade, and Economic Development for approval a list of all applications that are recommended by the board and VISIT FLORIDA, arranged in order of priority. The office may approve grants only to the extent that funds are appropriated for such grants by the Legislature per s. 288.0657, F.S.</p>		✓	
Accountability		Compliant	Non-Compliant
<p><u>Annual Audit.--</u>Prior to December 1 each year, the corporation shall provide for an annual financial audit in accordance with s. 215.981. The annual audit report shall be submitted to the Auditor General; the Office of Policy Analysis and Government Accountability (OPPAGA); and OTTED for review. OPPAGA, OTTED, and the Auditor General have the authority to require and receive from the corporation or from its independent auditor any detail or supplemental data relative to the operation of the corporation. OTTED shall annually certify whether the corporation is operating in a manner and achieving the objectives that are consistent with the policies and goals of the Commission and its long-range marketing plan. The identity of a donor or prospective donor to the corporation who desires to remain anonymous and all information identifying such donor or prospective donor are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such anonymity shall be maintained in the auditor's report.</p>		✓	
<p><u>Quarterly Reports.--</u>The corporation shall provide a quarterly report to the Commission which shall: (a) Measure the current vitality of the visitor industry of this state as compared to the vitality of such industry for the year to date and for comparable quarters of past years. Indicators of vitality shall be determined by the Commission and shall include, but not be limited to, estimated visitor count and party size, length of stay, average expenditure per party, and visitor origin and destination. (b) Provide detailed, unaudited financial statements of sources and uses of public and private funds. (c) Measure progress towards annual goals and objectives set forth in the Commission's 4-year marketing plan. (d) Review all pertinent research findings. (e) Provide other measures of accountability as requested by the Commission.</p>		✓	

Use of Emergency Fund and Supplemental Funding for Hurricane Recovery

This section of the report will review the public private partnerships' efforts to address the impact of the 2004 hurricanes on Florida tourism and a determination, if possible, of the effect of those efforts.

General Comments

From August 13, 2004 to September 26, 2004 there were four hurricanes that made landfall in Florida impacting the economy of the state in many areas. One of those areas affected was tourism: both in perception and in actuality. The Florida Commission on Tourism and VISIT FLORIDA expressed that the way to help the state ensure recovery was by addressing concerns of both meeting planners and leisure travelers regarding travel during the hurricane season. The focus of the effort was on the months of June through November, 2005.

In the months of July, August, September, and October 2005, the state was again impacted by four hurricanes. Three made landfall and one, Rita, caused an evacuation of the Florida Keys.

Initial Response to 2004 Hurricanes – Use of Emergency Funds & Other Actions

Use of Emergency Funds

The law requires that the Commission's four-year marketing plan include an emergency response component. VISIT FLORIDA, both by law and by contract, is responsible for carrying out the Commission's plan. Furthermore, the contract between OTTED and the Commission requires the Commission to direct VISIT FLORIDA to maintain an Economic Response Risk Fund to be used only to respond to circumstances which have caused, or have the serious potential to cause, a decline in Florida's tourism industry.³⁰ VISIT FLORIDA has maintained a fund of \$2 million.

The partnership agreement goes on to state that all parties agree that VISIT FLORIDA established this fund and "that the fund was expended in response to the four hurricanes during the fall of 2004."³¹

Expenditure of \$2 million

After Hurricane Charley, VISIT FLORIDA's executive committee met and discussed staff proposals to address tourism-related hurricane issues. The committee decided to spend \$119,000 of the emergency fund to do the following: advertise in key markets that

³⁰ *Partnership Agreement Between The Executive Office of the Governor, Office of Tourism, Trade, And Economic Development And The Florida Commission On Tourism*, signed December 12, 2005, Exhibit A, pp. 4-5.

³¹ Ibid.

Florida was still open for business in many parts of the state, thanking people for helping the state, and inviting people to come; have the University of Miami conduct an expedited study on impacts of the efforts; and, familiarization (FAM) tours at a later date.

As the hurricane season progressed, further plans were made to use the remainder of the emergency funds and to seek additional public sector funding. These decisions were based, in part, on research results from a consumer perceptions survey of 1,878 persons nationwide outside of Florida that was conducted October 12-18, 2004, and four separate focus groups with consumers and meeting planners in four major origin markets conducted in October and November 2004.

Of the \$2 million, over \$1.6 million funded advertising, approximately \$122,000 was used to fund research, and approximately \$243,560 funded domestic and international public relations initiatives. These funds were committed prior to the receipt of any hurricane relief funding received in 2005.

Replenishment of \$2 Million & Future Expenditure Decisions

Through the contract with the Commission, OTTED requires that if all payments have been made to the Commission from the Tourism Promotion Trust Fund as specified, then the Commission must certify that VISIT FLORIDA has replenished the \$2 million by September 30, 2006. If any funds have been expended from the fund, the Commission must certify that they were used in accordance with the contract.

Finally, the contract further allows the President and CEO of VISIT FLORIDA, in consultation with the Vice Chair of the Commission, to spend or encumber up to \$300,000 from the fund per risk circumstance. Funds above that amount can only be released in consultation with the Commission and the Executive Office of the Governor.

Other Actions:

VISIT FLORIDA has a crisis response plan used in dealing with hurricanes and other disasters that impact tourism. The plan is divided into three stages: preparation, assessment, and response. VISIT FLORIDA also has canned information, print, radio, and video spots that can be changed to accommodate the particular event. When appropriate, this is used either in addition to or in lieu of other media addressing the event and the status of the state.

Their crisis response system includes such things as providing information on the website for consumers relating to the location of the hurricane, information from the emergency management office, evacuation routes, and availability of accommodations in the state. The toll-free number is also made available to provide information to visitors to help them in time of a crisis. Welcome centers have been used to provide inbound visitors with the latest official information and advisories as well as assisting residents. Information is also provided to partners on the organizations website to assist in pre and post-hurricane activities, including media kits for the partners to use, if they choose.

Generally, all advertising and promotions for the state is temporarily stopped until the storm passes and media attention subsides.

Updates are provided on the websites after the storm. The assessment stage determines the damage to the industry in the state, what needs to be done to continue to bring visitors to the state, both short term and long term, and how the impacted areas can be assisted.

The response stage involves elements needed to market the state effectively.

Funding After the 2004 Hurricane Season³²

Even before the commencement of the Regular 2005 Legislature, the House Tourism Committee held one meeting and one hearing on the impact of the hurricanes on the tourism industry and infrastructure in Florida and proposals for addressing the short-term and long-term needs of the state and impacted local communities. These meetings were the only in-depth discussions on the tourism industry issues and their impacts on state and local revenues that were held prior to the Special Session Call. They set the stage for a discussion of funding. Although no funding was specifically appropriated to assist in the tourism initiatives proposed to keep tourists and convention business coming to the state, House leadership was instrumental in working with the Governor to secure \$4.75 million in increased revenue to help bolster Florida's tourism marketing campaign.

Those funds, along with an additional \$1.418 million made available by freezing select VISIT FLORIDA programs (a decision made by the board of directors), brought the total available funding to \$6.168 million. The funds were to be used to enhance the state's marketing program to reach both leisure travelers and meeting planners, to encourage meetings and conventions, and to provide grant funds for areas hardest hit by the hurricanes. The focus of the marketing efforts was to be geared toward improving perceptions of travel to Florida specifically during June through November 2005.

In mid-January VISIT FLORIDA began its marketing efforts related to the recovery plan which was to begin in April 2005 and be completed in July 2005. Funding for those efforts was requested through an addendum to the Partnership Agreement between OTTED and the Commission in March. The final version of the amended agreement was not finalized until June 19, 2005 and not signed until June 28, 2005.

The funding was used to do the following:³³

- *Consumer/Visitor* – Provide increased advertising and promotions through radio and television to address consumer perception issues related to coming to Florida. Included in this was awarding a trip each day tied to radio promotion in

³² See Appendix L for the "2004 Hurricane Response Reconciliation of Funding" for the state expenditures and the FY 04-05 use of the \$2 million in the Economic Risk Fund.

³³ See Appendix L for the "2004 Hurricane Response Reconciliation of Funding" for the state expenditures prepared by VISIT FLORIDA and Appendix M for the plan for the use of the funds presented to the Governor and the Legislature on February 10, 2005.

12+ markets and awarding each week in select Major League Baseball home-team markets for “Florida Fridays.” Both were mirrored by online sweepstakes.

- *Consumer/Visitor* – Provide increased funding for consumer information to be provided in the welcome centers.
- *Meeting Planners/Convention Business* – Provide increased advertising, direct marketing and internet programs supporting the “Cover Your Event” insurance, and the “See For Yourself” meeting planner visitation program to address planner perception issues about booking events in the state.
- *Media* – Provide media tours highlighting the state, media missions, and media satellite tours to educate the media on all of the state.
- *Impacted Areas of the State* – Distribute marketing grants to 10 areas of the state impacted by the hurricanes.³⁴
- *Research* – Provide funding for pre and post meeting planner and consumer research.

In 2005, the Cover Your Event insurance program for meeting planners covered approximately \$15.2 million in insured value for 110 meetings. As of December 2005, only 18 meetings were insured for 2006 at a value of \$2.35 million. No meetings were insured as of December 2005 for 2007. VISIT FLORIDA had bought enough insurance for FY 2006-07.³⁵

Additional pre and post research has been conducted. In March 2005 another wave of 1,840 consumer perception Internet-based surveys were conducted as well as 250 Internet-based surveys of meeting planners. This research was done to gauge the impact of the time without marketing intervention and to establish benchmark readings just prior to the onset of marketing intervention from supplemental marketing funding. In June a follow-up survey identical to the March survey was conducted. The survey of consumers in June indicated that the disinclination to visit the state had been cut in half. Among the meeting planners, Florida was considered the most popular state for meetings, but they were less likely to consider the state as a reliable venue during hurricane season.³⁶

An additional survey was conducted in November 2005. That survey is discussed, in part, in the discussion on impact that follows.

Impact of Efforts on Tourism

The numbers of tourists coming to the state and certain touristic indicators as shown below indicate that tourism in the state appears to be doing well.

According to the President and CEO of VISIT FLORIDA, the 2005 third quarter visitation to Florida rose by 9.3% in spite of the hurricanes and the adverse media

³⁴ See Appendix N for a listing of the VISIT FLORIDA Hurricane Grants.

³⁵ *President's Report* included in December 2005 VISIT FLORIDA quarterly meeting packet.

³⁶ *Strategic Marketing Research on Florida's Four Hurricanes in 2004*, Barry E. Pitegoff, Vice President of Research, VISIT FLORIDA, June 24, 2005.

coverage they brought. In fact, he projected that the state was on track to break the 80 million visitor mark for 2005.³⁷

Other indicators also show that Florida is doing well. In the quarterly reports submitted to OTTED, two figures are used to indicate the increase in spending by tourists: rental car surcharge and taxable retail sales made in Florida within the Tourism & Recreation tax category. The first, considered a strong indicator of touristic spending was recorded as \$140.2 million for calendar year 2005, a 16.3% increase compared to the same period in 2004. The second combines the touristic spending of visitors to Florida and residents in Florida. The taxable retail sales year-to-date collections for January through October 2005 were \$51.3 billion, an increase of 8.8% over the same period of 2004.³⁸

According to the consensus-built forecast for 2006 tourism presented to the Florida Commission on Tourism in December 2005, Florida can expect to see 3.2% more visitors in 2006. This is higher than national forecasts that predict 2% more visitors to the country. The consumer perceptions strategic research conducted in November 2005, which was part of the research for the forecast, indicated that consumer perceptions in certain areas were equal to or worse than those expressed in October 2004. The perceptions in two earlier surveys in 2005 had indicated significant improvement. The question is, how much ground that had been gained through earlier efforts has been lost? Additionally, what does this mean since the consensus is still for growth in tourism numbers? Additional surveys are to be conducted prior to the Legislative Session. Hopefully, these studies will provide more insight into the significance of the earlier findings.³⁹

Issues Identified

This sections provides a compilation of issues identified through interviews and the questionnaire that potentially require a change in law, funding, or emphasis in the state's tourism promotion efforts as well as issues identified in the Commission's Strategic (Marketing) Plan for 2006 -2009 that might require legislative action.

General Comments

Description of the Questionnaire⁴⁰

³⁷ *President's Report*, included in December 2005 VISIT FLORIDA quarterly meeting packet. According to an analysis of visitor estimates by VISIT FLORIDA, in the third quarter of 2004 visitation to the state managed to increase slightly (0.6%) during that period.

³⁸ "Quarterly Report," by VISIT FLORIDA, December 28, 2005, p. 2; "HOW'S BUSINESS," VISIT FLORIDA's Market Intelligence Report for Partners; January 13, 2006.

³⁹ Outlook 2006 Consensus-Built Forecast, Presented by Barry E. Pitegoff, Vice President of Research, VISIT FLORIDA, December 12, 2005. The consensus report is based upon four studies commissioned by VISIT FLORIDA and two additional secondary studies.

⁴⁰ See Appendix A for a copy of the questionnaire.

The questions used in telephone and face to face interviews were the same as those used in the mailed questionnaire. The first three questions dealt with the respondents perceptions of the Commission and VISIT FLORIDA's strengths and weaknesses, the statutory and working relationship with OTTED, and any internal or legislative changes that might be needed to address any noted deficiencies. The next two questions asked the respondent to state if the public-partnership had evolved as had been envisioned and what the respondent envisioned as the partnership's fulfillment of its statutory responsibilities and its responsibilities to the industry. The following four questions pertained to the elements of the new strategic plan of the partnership, the needs to carry out those provisions, and the appropriateness of the statutory requirement for a marketing plan. The remaining questions specifically asked about the need to change statutory requirements relating to Commission membership.

General Perceptions of the Public-Private Partnership

Respondents unanimously agreed that the public-private partnership had improved tourism initiatives in the state. Some of the commonly identified strengths were as follows:

- Industry-driven with diverse representatives of the state's tourism industry leaders coming together to help tourism throughout the state and to provide a coordinated approach to tourism marketing programs.
- Ability for state money to be greatly enhanced by contributions from the private sector and the non-state public sector, i.e., convention and visitor bureaus.
- Not being weighted down by a governmental organization that cannot make fast decisions when issues relating to marketing and promotion need fast results. It can turn on a dime. This relates to adapting marketing efforts to meet changing conditions in the state. Not only in area of crisis marketing, but in promotion of the state's changing and diverse product as well.
- Providing programs that help smaller communities and rural areas of the state.
- Expanding access to markets, nationally and internationally, to which communities otherwise would not be able to access.
- Number and variety of programs and services available to industry partners.
- Qualified, professional staff.

Respondents also identified weaknesses or deficiencies that they felt should be addressed. The majority of the responses identified related to the need for additional funding or the need for alternative funding sources which will be discussed under the heading on funding in this section of the report. Weaknesses did not relate to the structure of the public-private partnership but to funding, contracts, and requirements impacting the partnership. Some of commonly identified weaknesses other than funding mentioned by the respondents were as follows:

- Intrusion of government, making the private entity more like government. Gradual erosion of private sector independence as a company; thereby, eroding responsiveness to industry.

- More required reports and workload required that must be performed with no additional revenue.
- Additional performance requirements and increased performance standards for the Commission (and VISIT FLORIDA) without additional funding.
- Performance requirements that do not truly measure what is controllable by the Commission and VISIT FLORIDA.
- Inability to use all available marketing vehicles because of funding level.
- Limited staff in certain critical areas because of limited funding.⁴¹

Respondents agreed, with one exception, that the partnership has evolved better than anyone ever thought it would. In fact, one respondent stated that they did not know what had been envisioned but that

...comments on the street, from our partners, as well as other hospitality industry observers are very positive as to successes of partnership. VISIT FLORIDA is used as a model for many new creations of its kind. Imitation is the sincerest form of flattery, and we sure are being copied.⁴²

Another respondent stated that he had only been in the tourism industry in Florida for six years and that he was “impressed by the state’s structure – it surpasses anything I’ve seen in other states.”⁴³

However, some respondents expressed concern about greater involvement by government in the operations of VISIT FLORIDA, the private partner, and what they called “bureaucratic encroachment.”

Recommendations for Change to Law Relating to Florida Commission on Tourism

Commission Membership

With regard to changing the selection requirements for the 17 general tourism-industry-related members, the majority of persons responding to the question did not think that there was a need to change the membership criteria. The additional question related to the need for change in the use of the statutorily-based six tourism regions as part of the selection and distribution of these 17 members was split in its responses. Only 22% recommended a change but they were not consistent in the change. Twenty-six percent stated that the regions were fine as noted in the law while another 26% indicated that the issue needed further study. The remainder of those surveyed either did not respond or indicated that they did not know.

⁴¹ Although not identified by many, one respondent mentioned that the Commission needed more representation from NW Florida and two respondents did mention that the size of the VISIT FLORIDA board and Commission should be examined for reduction.

⁴² Nicki Grossman, President/CEO, Greater Fort Lauderdale Convention & Visitors Bureau.

⁴³ Ed Schroeder, President and CEO, Pensacola Convention and Visitors Bureau.

When asked if there were other statutory changes relating to membership requirements that needed to be revised, the majority of the responses indicated that there was not a need for change. In fact, only four responses expressed a concern that related to statutory change. Three of those expressed a concern that the size of the Commission had gotten too large to function effectively. Another stated that there needed to be a mechanism in law to require the automatic resignation of a commissioner if the commissioner misses three of the four quarterly meetings in a fiscal year. Currently, there is no provision in law for attendance as a requirement for continued membership.

Change in Marketing Plan to Strategic Plan

Forty-seven percent of those who responded to the question on the marketing plan suggested changing the marketing plan reference in the statute to a strategic plan with a marketing plan component. However, some of the responses indicated variations on timeframes for the plan other than three years as noted in the question. Thirty-two percent of the respondents indicated there was no need to change the law. One over-arching comment, regardless of the response, was the need for flexibility regarding the plan.

Change in Meeting Requirements

Current law requires that the Commission shall meet at least quarterly. Some responses received from Commissioners and VISIT FLORIDA staff suggested the need to reduce the number of meetings to three in order to save time and money. This would also apply to meetings of the board of directors of VISIT FLORIDA which coincide with the Commission meetings.

Recommendations for Change to Law Relating to VISIT FLORIDA

Change in Meeting Requirements

As stated above under the Commission suggestion, if the quarterly meeting requirement were to change, then the board of directors could meet only three times a year. This would not preclude committees and councils of the board from meeting more often nor would it preclude called meetings of the full board.

Note that changes that affect the funding of or contracting with the Commission, as well as statutory changes in Commission membership or responsibilities, also equally impact VISIT FLORIDA.

Recommendations for Changes to Law Relating to OTTED

The following is a listing of the most prevalent concerns expressed in the questionnaire related to OTTED, some of which might be able to be addressed statutorily:

- Contract should be multi-year with the Commission as the Commission contract is with VISIT FLORIDA.
- Contract for the Commission should be ready in a timely fashion. Possibly, there should be a requirement for a date for a draft contract to be provided to the Commission. If possible, the draft contract should be ready to take to the Commission and VISIT FLORIDA board meetings in mid-June.
- The usefulness of the quarterly reports and the information provided in the reports needs to be reviewed.
- Through the partnership contract with the Commission, OTTED has reached more into the operations of the private entity, VISIT FLORIDA, for which the Commission contracts and serves as contract administrator. There is a concern that the number of performance measures and required reports has grown while the budget has remained relatively static.

Recommendations for Changes in Funding

A primary theme in all of the responses was the need for additional funding from the public sector that would, in turn, generate more funding from the private sector.

One specifically identified need was additional funding to increase the current public funding level to adjust for the inflationary increases in such things as media and creatives.

- VISIT FLORIDA has indicated that it is currently struggling to provide ever-increasing value to its constituents while constrained with a static public funding and declining buying power.⁴⁴
- VISIT FLORIDA, in its recent presentation on January 27, 2006 to the Transportation & Economic Development Appropriations Committee of the Florida House of Representatives, indicated that it does not have the resources to do television advertising if it is to continue its other programs. This is due to the increased costs of advertising.

Another specific need was to identify an alternative funding source to help fund the tourism initiatives. This was to be in addition to the current rental car surcharge. No specifics were provided by respondents on what this alternative funding source would be. One respondent suggested, however, that a study be conducted on the rental car surcharge to determine if the appropriate amount of money was being deposited into the Tourism Promotional Trust Fund and then appropriated to the Commission for its contract with VISIT FLORIDA for tourism marketing and promotion.

A third major funding area identified in the questionnaire responses was that of the funding for the economic risk fund, which is the emergency fund used by VISIT

⁴⁴ At the October 25, 2004 Legislative Task Force Meeting of VISIT FLORIDA, information was provided indicating that for FY 2005-06, it would take \$25.3 million in state funds to equal the buying power of 2000. The Governor's budget request for FY 2006-07 is \$24.7 million.

FLORIDA to respond immediately in times of emergencies, such as hurricanes, fires, etc. Two issues were raised:

- The need to have the money for the fund be considered in addition to other funding provided by the Legislature and that it not be a negotiable item in a contract.
- The amount of funding, in light of the event over the past two years, should be increased. One respondent suggested \$4 or \$5 million.

The final major area of funding that was identified in the questionnaire was the public and private sector funds needed to implement the strategic plan for 2006-2009 for the Commission and VISIT FLORIDA. An amount was not specified, only that both public and private funding would be required to implement it as outlined in the plan.

Changes Proposed in Strategic Plan 2006-2009

In December 2005, the board of directors of VISIT FLORIDA and the Commission adopted the strategic plan for the partnership for 2006-2009. The plan was submitted to OTTED in the December quarterly report of the Commission. The plan includes an analysis of the current status of VISIT FLORIDA, including an analysis of its physical and personnel assets, where it wants to be in 2009, and how it proposes to get there. At this time, it does not appear that the plan requires changes in law. Most proposed changes are authorized in law and can be addressed by the Commission and VISIT FLORIDA. Some aspects may be governed through contract and, therefore, need to be monitored.

The plan states that the major result of the plan will be for VISIT FLORIDA to focus realistically on organizational growth while achieving maximum business potential. It also states that it is based on the assumption that public resources will be appropriated to the Commission for VISIT FLORIDA.

The plan calls for an increase in both state and non-state funding to have each reach a hard dollar funding level of \$40 million over 4 years. For the state, this would require the maintenance of the existing FY 2005-06 funding of \$24.7 million in FY 2006-07 and an increase of \$5.1 million for each year for FY 2007-08 through FY 2009-10.

Conclusions

The following conclusions are made from the findings of the report and are provided for the consideration of the Members:

- The Florida Commission on Tourism and VISIT FLORIDA meet statutory requirements and contractual requirements regarding responsibilities. As discussed below, the only noted issue is not having the statutorily required

number of members; however, this is not under the control of the Commission nor VISIT FLORIDA.

- The required statutory tourism industry membership of the Florida Commission on Tourism is 32; however, as of this date, there are only 26 members. These members also serve as the board of directors for VISIT FLORIDA. The vacancies, including required additions made in 2005, have been in existence for six months. The appointments are statutorily required to be made by the Governor.
- The required statutory membership for the Commission includes five representatives from tourist-related statewide associations, including those that represent hotels, campgrounds, county destination marketing organizations, restaurants, and attractions. When the language was written, there was a distinct organization representing hotels and one representing restaurants. Now, there is a combined association, the Florida Restaurant and Lodging Association. This association does not include some of the larger county hotel and motel associations as members. Those associations have formed their own coalition. There are three questions that need to be answered:
 - Is there a “statewide” association representing hotels that can fulfill the specific statutory membership requirement?
 - If an organization represents two groups, should it be allowed to have two voting members on the Commission and the board of directors of VISIT FLORIDA?
 - Based upon the response to the two prior questions, should the language be left as it is, amended, or deleted?
- The number of members of the board of directors for VISIT FLORIDA was not changed during the 2005 Session to conform to the tourism-industry-related membership of the Commission. The Commission has 32 such members; yet, the VISIT FLORIDA board of directors is required to have only 31 members. It is recommended that the two are conformed.⁴⁵
- The regional distribution of the 17 general tourism-industry-related appointments should continue to be reviewed to determine if the six regions should be reconfigured or expanded. If there is any change, there needs to be a determination on how changes will impact the Commission and the VISIT FLORIDA board of director membership and their effectiveness.
- The Commission is required to recommend a 4-year marketing plan to be carried out by VISIT FLORIDA.⁴⁶ According to responses to the questionnaire, the use

⁴⁵ See ss. 288.1223(2) and 288.1226(4), F.S.

⁴⁶ In December 2005, the Commission adopted the strategic plan that was approved by the VISIT FLORIDA board of directors. The strategic plan includes a variety of marketing initiatives to accomplish statutory goals of the Commission.

of the term “marketing plan” is no longer accurate. Actually, the correct terminology is “strategic plan.” Marketing is a part of a strategic plan to sustain tourism growth. Additionally, industry representatives stated that in the fields of marketing, advertising, and promotion strategic plans are three years in duration because of the rapid changes in the fields. Consideration should be given to updating the terminology used in the law to reflect current practice. Consideration should also be given to reducing the length of the plan to three years.

- Three issues were addressed through the questionnaire responses that should be reviewed for possible legislative change: reduction in the number of statutorily-required meetings of the Commission and the addition of criteria to the law as grounds for removal of a member of the Commission, such as failure to attend 3 out of the 4 meetings held each year.
- Another issue brought up in the questionnaire and in the strategic plan for the Commission and VISIT FLORIDA is the need for additional public funding and the need for providing funding for the Economic Risk Fund when the funds are depleted because of an emergency. The discussions on the need for additional funding centered around the current funding not growing with the increased rates in such things as advertising which makes the current funding equivalent to funding in 2000. Decisions have been made to cut television advertising for use by the state because of the costs. Additionally, concerns were raised about the ability to compete in new markets and to maintain market share. The new strategic plan calls for an increase in public funds and private funds over the next four to five years.

It is recommended that the funding level and the requests for funding be carefully reviewed for both short-term and long-term impacts on the growth of the tourism industry and the vitality of the public-private partnership. It is recommended that the strategic plan be reviewed carefully and that the requested investment be analyzed carefully. Always remembering that for every state dollar invested, the non-state sector is required to match it 1:1.

- The timeliness of the Governor’s Office of Tourism, Trade and Economic Development (OTTED) providing the fiscal year contract for consideration by the Florida Commission on Tourism is important. The Commission contracts with VISIT FLORIDA to perform all functions related to implementing the marketing plan and other directives of the Commission. Funding that is provided by OTTED is a reimbursement for services already performed. As a business, VISIT FLORIDA operates with a budget allocated for certain activities approved by the board of directors. Funds cannot be moved from account to account to cover unrelated expenses. Private funds are designated for certain purposes. A substantially rewritten contract was not provided for consideration until September 17, 2005. Major points of the contract were negotiated, and a final contract was received from OTTED on November 4, 2005. The contract was sent

to the executive committee on November 7, 2005 and was approved by the committee and signed on November 10, 2005. The fax of the contract was signed by OTTED on November 12, 2005 with the actual contract not being signed until December 5, 2005. The first quarter payment applied for on September 30, 2005 was received in two payments on November 17, 2005 and November 21, 2005. Currently, the contract allows for a continuation of the contract for six months past its expiration date. However, there would appear to be a need for a good faith effort on all parties to execute the contracts as close to the beginning of the fiscal year as possible. The timeliness of contracts by OTTED with its partners should be reviewed and a determination made regarding requiring such contracts to be provided to partners by a time certain and executed by a time certain.

References

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“Quarterly Report to OTTED for the Period Ending June 30, 2005.” Florida Commission on Tourism. June 2005.

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VISIT FLORIDA. Marketing Response to Hurricane Charley. 16 Aug. 2004.

Legislation & Laws

Sections 14.2015, 212.0606, 288.012, 288.017, 288.065, 288.0657, and 288.122 – 288.1227, Florida Statutes.

Chapter 96-320, Laws of Florida, and House of Representatives Final Bill Analysis.

QUESTIONS REGARDING TOURISM

1. What do you consider to be the strengths of the public/private partnership (Commission & Visit Florida)?

2. Are there any weaknesses/deficiencies in the structure?

As it relates to the relationship between the commission and the board?

As it relates to the statutory and working relationship with OTTED?

3. If there are weaknesses or deficiencies, can these be addressed internally or do they need changes in law? If changes in law are necessary, what would you suggest if you have not already discussed this in question 2?

4. Has the structure evolved as you think was envisioned by the private sector *and public sector* when it was first started? If not, please explain.

5. What is your vision for the Commission and the Board in fulfilling its statutory responsibilities and its responsibilities to the industry?

6. Do you think the strategic plan will lead the state where it needs to be in positioning itself in marketing the state and in growing the revenues?

7. What are the most important parts of the plan?

8. Do changes in law or funding need to be addressed to accommodate the vision that is laid out in the plan?

9. The law requires a 4 year marketing plan. It used to require a 5 year plan but was changed to 4 years not too long ago. Is this still accurate and timely in how the corporate world functions? Should it be a shorter time frame? Should it be called a “strategic” plan or does it matter?

10. Do you think that the statutorily required appointment criteria for the 17 general tourism-industry-related members who are appointed by the Governor for 4 year terms should be revised? If so, in what way?

Are the six regions still applicable or do they need to be revised to reflect a different county configuration or an increased or decreased number of regions?

11. Do you think that other statutory requirements for Commission membership need to be revised? If so, how?

**PARTNERSHIP AGREEMENT
BETWEEN
THE EXECUTIVE OFFICE OF THE GOVERNOR
OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT
AND
THE FLORIDA COMMISSION ON TOURSIM**

THIS PARTNERSHIP AGREEMENT ("Agreement") (OTTED Agreement Number OT-06-003) is made and entered into in the City of Tallahassee, Leon County, Florida, as of this _____ day of _____, 2005, by and between THE OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT ("OTTED"), located at Executive Office of the Governor, Suite 2001, The Capitol, Tallahassee, Florida 32399-0001, and the FLORIDA COMMISSION ON TOURISM ("COMMISSION"), located at 661 East Jefferson Street, Suite 300, Tallahassee, Florida 32301. OTTED and the COMMISSION are sometimes hereinafter referred to as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the 1996 Florida Legislature determined that State-funded efforts to promote and enhance Florida tourism would be carried out by an innovative public/private partnership. The Legislature moved the tourism services from the Department of Commerce to the Florida Commission on Tourism which was granted increased authority to oversee the State's efforts to increase the positive impact of tourism on the state's economy through effective marketing and to promote tourism objectives in cooperation with the private sector. The Office of Tourism, Trade, and Economic Development was created within the Executive Office of the Governor to serve as the liaison between the executive branch and the COMMISSION.

WHEREAS, Section 288.1223, Florida Statutes, authorizes the COMMISSION to serve as the state's designated tourism promotion organization whose core mission is to increase the positive impact of tourism, including increased employment of state citizens, to all sectors of the economy through effective marketing activities; to continually upgrade the image of Florida as a quality destination; to promote tourism objectives equally to all geographic, socioeconomic, and community sectors; and to judge its efforts by the same standards of accountability and integrity as those used by successful, respected private businesses.

WHEREAS, in support of this effort, the COMMISSION, under the aegis of the Executive Office of the Governor, is directed by law to provide policy direction to and technical expertise in the promotion and marketing of the state's tourism efforts and to focus and provide state supervision of ongoing collective action to promote Florida tourism, per Section 288.1221, Florida Statutes. The COMMISSION, in accordance with its Agreement with OTTED and on behalf of OTTED, will administer a contractual Agreement between the COMMISSION and the Florida Tourism Industry Marketing Corporation, d.b.a. VISIT FLORIDA dealing with tourism promotion activities carried

out by VISIT FLORIDA under the direction of the COMMISSION in accordance with the Four-Year Marketing Plan.

WHEREAS, the Legislature has mandated that funds be directed by OTTED to the COMMISSION to support tourism promotion and marketing activities, services, functions, and programs administered by the COMMISSION through an Agreement with the COMMISSION's direct support organization and has required OTTED to include in each implementation Agreement performance measures, standards and sanctions. OTTED is required by Section 14.2015, Florida Statutes, and the appropriation process, to provide proper oversight of the COMMISSION's programs and activities and is authorized to request that funds be appropriated based on a performance review

WHEREAS, the purpose of this Agreement is to define the Parties' mutual expectations and responsibilities for implementation of funds and programs mandated or authorized by the Florida Legislature.

WHEREAS, OTTED and the COMMISSION desire to enter into this Agreement with regard to the implementation of the funding and programs described herein.

WHEREAS, OTTED and the COMMISSION agree that an essential element of an effective relationship between them is mutual cooperation to assist each other in accomplishing their respective duties, obligations, covenants, and agreements imposed on them or made by them in this Agreement, and under Chapters 14, 272, and 288, Florida Statutes.

WHEREAS, OTTED and the COMMISSION agree to share information bearing on the performance of their respective duties as fully as possible, consistent with the obligations imposed by this Agreement and applicable laws.

NOW, THEREFORE, in consideration of the promises and mutual Agreements contained herein, the Parties agree as follows:

1. PARTIES:

The parties and their respective addresses for purposes of this Agreement are as follows:

For OTTED: Executive Office of the Governor
Suite 2001, The Capitol
Tallahassee, Florida 32399-0001
Facsimile Number (850) 487-3014
Email: katherine.morrison@myflorida.com

For the COMMISSION: 661 East Jefferson Street, Suite 300
Tallahassee, Florida 32301
Facsimile Number (850) 414-9732
Email: cnilson@visitflorida.org

2. AGREEMENT MANAGERS:

The Parties each hereby appoint an Agreement Manager to facilitate the terms of this Agreement. All written approvals referenced in this Agreement must be obtained from the Parties' Agreement Managers or their designees. The OTTED Agreement Manager is Katherine Morrison, Tourism and Sports Liaison, telephone number (850) 487-2568. The COMMISSION's Agreement Manager is Cliff Nilson, Vice President of Governmental Relations, telephone number (850) 488-5607 x348. Either Party may change its Agreement Manager at any time by written notice to the other.

3. TERM:

This Agreement will commence July 1, 2005 and, unless earlier terminated pursuant to the terms hereof, will expire on June 30, 2006. This Agreement may be extended by OTTED for a period not to exceed six months, upon the same terms and conditions of this Agreement, other than those changes necessary to accommodate the revised dates, revised funding, and any other revisions required by law. The COMMISSION acknowledges that while no extension or renewal of this Agreement is assured, any consideration of an extension or renewal will be subject to the availability of funds and further conditioned upon its satisfactory performance of all duties and obligations hereunder, as determined by OTTED.

4. NOTICES:

a. All notices, demands, requests, and other communications given hereunder shall be made in writing and shall be delivered (i) in person, (ii) by certified mail, return receipt requested, (iii) by receipt-confirmed overnight delivery service, or (iv) via confirmed facsimile. Any such notice, demand, request, or other communication shall be effective only if and when it is received by the Agreement Manager.

5. AMENDMENT AND MODIFICATION:

a. This Agreement may not be altered, modified, amended, or changed in any manner, except pursuant to a written Agreement executed and delivered by each of the Parties. Additionally, any such modification, amendment or change shall be effective on the date of delivery or such later date as the Parties may agree therein.

b. Modification of this Agreement or any notices permitted or required under this Agreement may be made by facsimile transmission. Receipt of the facsimile transmission shall for the purposes of this Agreement be deemed to be an original, including signatures.

6. EXHIBITS:

Attached to and made a part of this Agreement are the following Exhibits; each of which is incorporated into and is an integral part of this Agreement:

Exhibit A	Scope of Work
Exhibit B	Performance Measures
Exhibit C	Sanctions
Exhibit D	Audit Requirements

7. DUTIES AND OBLIGATIONS:

a. The Florida Tourism Industry Marketing Corporation d/b/a VISIT FLORIDA, which was created by the COMMISSION in 1995, serves as the COMMISSION's direct support organization. Pursuant to Section 288.1226, Florida Statutes, the Legislature has conferred additional statutory authority to the COMMISSION and VISIT FLORIDA so that VISIT FLORIDA will be the primary tourism promotion and enhancement organization for the State of Florida. Pursuant to Section 288.1224, Florida Statutes, OTTED grants approval to the COMMISSION to contract with and confer to VISIT FLORIDA all necessary and appropriate authority so that VISIT FLORIDA can function as the State's primary tourism promotion and enhancement organization.

b. The COMMISSION, hereby agrees to serve as the designated tourism promotion organization for the State of Florida. In furtherance of such role, the COMMISSION, through VISIT FLORIDA, shall develop and implement programs and strategies that address the matters identified in Chapters 14, 272, and 288, Florida Statutes, as well as those services, programs and activities more particularly described in Exhibit A, *Scope of Work*.

c. In accordance with Section 14.2015(7), Florida Statutes, Exhibit B *Performance Measures*, details a number of performance measures and minimum standards. The COMMISSION, through VISIT FLORIDA, shall document that the standards contained in Exhibit B *Performance Measures* have been achieved. The COMMISSION hereby agrees that it shall fully comply with the performance measures in Exhibit B and further agrees that its compliance with the Agreement Performance Measures shall be determined by OTTED. Reasons for non-performance include, but are not limited to, uncontrollable circumstances, unfavorable external economic conditions, quarterly variations, establishment of new processes, including the transfer of programs, and allocation of resources to meet priority demands as determined by OTTED. OTTED's determination shall not be unreasonably withheld. Any proposal to change the performance measures in Exhibit B shall be made in accordance with Sections 14.2015(7) and Chapter 216.177, Florida Statutes. Upon final approval, any new performance measures will be incorporated into this agreement.

8. PAYMENT:

a. Payments under this Agreement will be made to the COMMISSION in accordance with applicable Florida laws and the 2005-2006 General Appropriations Act. The COMMISSION acknowledges and agrees that only costs incurred during the term are eligible for payment under the funding of this Agreement. The maximum amount that may be funded to the COMMISSION under this Agreement is \$24,699,209. The COMMISSION acknowledges that pursuant to the 2005-2006 General Appropriations Act, the COMMISSION shall expend funds available pursuant to this Agreement in accordance with the funding categories provided for in Specific Appropriation 2504. All payments shall be subject to the terms of this Agreement, including the Exhibits.

b. Quarterly payments shall be made to the COMMISSION upon receipt and approval by OTTED of: (1) an original invoice; (2) all reports required by Exhibit A; and (3) any additional documents required by this Agreement to have been submitted by the close of the applicable quarter.

c. The parties agree that the COMMISSION will not be entitled to any reimbursement for travel expenses from OTTED other than from the all-inclusive funds identified in this section.

d. For the purposes of this Agreement, the COMMISSION quarterly reports shall be submitted to OTTED as shown in Exhibit A. Payments may be approved and paid by OTTED and utilized by the COMMISSION as shown:

Quarter 1: Payment Total: \$10,300,000 (\$8,100,000 - Tourist Promotional Trust Fund and \$2,200,000 - General Revenue)

Quarter 2: Payment Total: \$7,300,000 (\$5,100,000 - Tourist Promotional Trust Fund and \$2,200,000 - General Revenue)

Quarter 3: Payment Total: \$5,100,000 (\$5,100,000 - Tourist Promotional Trust Fund)

Quarter 4: Payment Total: \$1,999,209 (\$1,999,209 - Tourist Promotional Trust Fund)

e. For any payment period, OTTED shall have ten working days from the receipt of the items required to review and communicate to the COMMISSION any deficiencies. If no deficiencies are found by OTTED, it shall initiate payment of the stated amount within ten working days from the receipt of the required items. If deficiencies are found, OTTED shall have five working days from the time the deficiency is cured to initiate payment.

f. All documents, reports, and services required in Exhibit A, and other documents or information required by this Agreement must be received and approved by OTTED before payments to the COMMISSION shall be due or payable.

9. REPORTS:

a. The COMMISSION shall submit to OTTED all reports and information, including the Quarterly updates on Exhibit B, *Performance Measures*, reports, and other documents and materials required in Exhibit A, *Scope of Work*.

b. If this Agreement is extended or renewed beyond the original Agreement period, additional updates on Quarterly Performance Measures, and other documents, reports, and services as required in Exhibit A, *Scope of Work*, and other documents requested by OTTED to cover the extended Agreement period shall be submitted by the COMMISSION.

10. AVAILABILITY OF FUNDS:

OTTED's performance and obligation to pay under this Agreement is contingent upon (1) an annual appropriation by the Legislature of the State of Florida for the specific purpose of funding OTTED's obligations under this Agreement, and (2) the receipt of \$20,299,209 into the Tourism Promotional Trust Fund and the continued authority of \$4,400,000 from the General Revenue Fund in the 2005-2006 Fiscal Year. In the event of a state revenue shortfall, the total funding may be reduced accordingly.

11. BUDGET:

No later than July 1 of each year, the COMMISSION shall submit to OTTED for review, an operating budget for the fiscal year that specifies the intended uses of the State's operating investment.

12. DISSOLUTION OF CORPORATION:

Upon dissolution of the COMMISSION, the assets of the COMMISSION, after all its legal liabilities and obligations have been paid or adequate provisions have been made therefore, shall revert to the State of Florida.

13. WOMEN AND MINORITY VENDORS:

The COMMISSION is encouraged to use small businesses, including minority and women-owned businesses as subcontractors or sub-vendors under this Agreement. The directory of certified minority and women-owned businesses can be accessed from the website of the Department of Management Services, Office of Supplier Diversity. The COMMISSION shall report on a quarterly basis its expenditures with minority and women-owned businesses. The report shall contain the names and addresses of the

minority and women-owned businesses; the aggregate dollar figure disbursed that quarter for each business; the time period; type of goods or services; and the applicable code. If no expenditures were made to minority or women-owned businesses, the COMMISSION shall submit a statement to this effect.

14. SUBCONTRACTS:

a. The COMMISSION shall be responsible for all work performed and all expenses incurred in connection with the development and implementation of the services, programs, and activities under this Agreement.

b. The COMMISSION may, as appropriate and in compliance with applicable law, subcontract the performance of the services set forth in this Agreement, including entering into subcontracts with vendors for services and commodities, *provided, however*, that The COMMISSION shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract. The COMMISSION shall not enter into subcontracts in which OTTED could be held liable to a subcontractor for any expenses or liabilities. To the extent permitted by law, the COMMISSION shall defend and hold OTTED harmless of any liabilities incurred under any of the subcontracts entered into by the COMMISSION. The COMMISSION shall be liable for all work performed and all expenses incurred as a result of any subcontract.

c. Any and all contracts that the COMMISSION executes with a person or organization under which such person or organization agrees to perform services on behalf of the COMMISSION shall include provisions requiring that such person or organization report on performance, account for proper use of funds provided under the Agreement (including the provision of audit rights pursuant to Section 20, 21, and Exhibit D when applicable), coordinate with other applicable components of state and local entities, and avoid duplication of existing state and local services and activities.

d. Any and all contracts that the COMMISSION executes with a person or organization shall include provisions whereby the COMMISSION and the subcontractors agree to abide by all local, state, and federal laws and encourage the use of women and minority vendors.

e. The COMMISSION, through VISIT FLORIDA, will provide OTTED with a list and description of all material subcontracts in conjunction with the projects undertaken and funds expended in the performance of this Agreement.

15. INDEPENDENT CAPACITY OF CONTRACTOR:

a. The Parties agree that the COMMISSION, its officers, agents, and employees, in performance of this Agreement, shall act in the capacity of an independent contractor. Neither the COMMISSION, nor any of its employees or agents, shall be entitled to receive any benefits of State employment, including retirement benefits or any other rights or privileges connected with employment in the State Career Service System. The

COMMISSION agrees to take such steps as may be necessary to ensure that each subcontractor of the COMMISSION will be deemed to be an independent contractor and will not be considered or permitted to be an agent of the State of Florida.

b. The COMMISSION shall not pledge the State of Florida's nor OTTED's credit nor make the State of Florida or OTTED a guarantor of payment or surety for any contract, debt, obligation, judgment lien, or any form of indebtedness.

16. LIABILITY:

OTTED shall not assume any liability for the acts, omissions to act, or negligence of the COMMISSION, its agents, servants, or employees. In all instances, the COMMISSION shall be responsible for any injury or property damage resulting from any activities conducted by the COMMISSION.

17. INDEMNIFICATION:

a. The COMMISSION, shall indemnify and hold OTTED harmless to the fullest extent permitted by law, from and against any and all claims or demands for damages resulting from personal injury, including without limitation, death or damage to property, arising out of any activities performed by the COMMISSION under this Agreement and shall investigate and defend any and all claims at its own expense. Without exception, the COMMISSION will indemnify and hold harmless the State of Florida and its employees and agents from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured by the COMMISSION.

b. At OTTED's election and upon notification to the COMMISSION, the COMMISSION shall assume the defense or settlement of any third-party claim with counsel reasonably satisfactory to OTTED; *provided, however*, that the COMMISSION shall not settle or compromise any such claim in an amount over \$10,000 without OTTED's prior written consent. Notwithstanding the foregoing, (a) OTTED shall have the right (but not the obligation), at its option and expense, to participate fully in the defense or settlement of any third-party claim; and (b) if the COMMISSION does not continuously defend or settle any third-party claim within thirty (30) days after it is notified of the assertion or commencement thereof, then (i) OTTED shall have the right, but not the obligation, to undertake the defense or settlement of such claim for the account and at the risk of the COMMISSION, and (ii) the COMMISSION shall be bound by any defense or settlement that OTTED may make as to such claim. OTTED shall also be entitled to join the COMMISSION in any third-party claim for the purpose of enforcing any right of indemnity hereunder.

18. PATENTS, COPYRIGHTS, AND ROYALTIES:

If any discovery or invention arises or is developed in the course or as a result of work or services performed under this Agreement, or in any way connected with this Agreement,

the COMMISSION shall refer the discovery or invention to OTTED to determine whether patent protection will be sought in the name of the State of Florida.

OTTED agrees that in the event the COMMISSION acquires any copyrights, trademarks, or patents developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with this Agreement, the COMMISSION shall also have the right to enjoy and use such copyright, trademark, or patent and any license, royalty or other right or interest thereunder or therein. Upon dissolution of the COMMISSION, the trademarks, patents, copyrights, and royalties belonging to the COMMISSION shall become the property of the State of Florida.

19. RESPONSIBILITIES OF GOVERNING BOARD OR AUTHORITIES:

The Parties agree that any information, including updates, reports, publications, studies, and any and all reasonably requested information, that is required by federal, state or local law shall be approved by those persons having the authority to do so prior to submission, and shall be signed only by those persons having the legal authority to do so or appropriately ratified by such an authority.

20. ACCESS TO RECORDS:

a. OTTED may perform on-site reviews to independently validate any information or reports submitted to OTTED. The COMMISSION shall allow OTTED's Agreement Manager and other OTTED authorized personnel access to any information and any other documents requested by OTTED for purposes of monitoring the COMMISSION's performance.

b. The COMMISSION shall, subject to the provisions of Chapter 119, Florida Statutes, and other relevant laws, permit public access to all documents or other materials prepared, developed or received by it in connection with the performance of its obligations or the exercise of its rights under this Agreement. This Agreement may be terminated by OTTED if The COMMISSION fails to allow such public access.

21. GOVERNING LAW:

This Agreement is executed and entered into in the State of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Any litigation arising under this Agreement shall be brought in the appropriate court in Leon, County, Florida, applying Florida Law.

22. STRICT COMPLIANCE:

The COMMISSION agrees that all acts to be performed by it in connection with this Agreement must be performed in strict conformity with all local, state and federal laws and regulations.

23. SANCTIONS, BREACHES, AND REMEDIES:

a. In the event that the COMMISSION fails to comply with any of the terms of this Agreement, OTTED may exercise any remedies available at law or in equity, including, without limitation the right to (i) impose penalties and sanctions, described in Exhibit C, (ii) withhold and/or reduce funding to the COMMISSION, and (iii) in the event such failure is material to the Agreement as a whole, terminate this Agreement in accordance with the terms hereof.

b. Notwithstanding anything contained herein or in Exhibit C (*Sanctions*) to the contrary, in the event that the COMMISSION defaults in the performance of any duty, obligation, covenant, or Agreement imposed on it or made by it in this Agreement or by law, then OTTED may provide a notice of the default to the COMMISSION. Unless OTTED determines that the default needs to be cured immediately, the COMMISSION shall have fifteen (15) calendar days following the date of the notice within which to initiate action to correct the default. In the event OTTED has not determined that the default needs to be cured earlier, the COMMISSION shall have thirty (30) calendar days following the date of notice of default, either to cure the default, or to demonstrate to the satisfaction of OTTED that corrective action has been taken and will be likely to result in curing the breach within a period of time that OTTED agrees is reasonable. In the event that the COMMISSION fails to cure the default (within the timeframe established above, whether immediately or otherwise) or make such demonstration to the satisfaction of OTTED, OTTED may exercise any remedy available to it under the law or in equity, including, without limitation the right to terminate this Agreement immediately upon notice to the COMMISSION.

c. In the event of termination of this Agreement, OTTED and the COMMISSION will negotiate an appropriate compensation for services provided prior to the date of termination. Subject to compensation due the COMMISSION for any work satisfactorily completed prior to any notice of termination, following the termination of this Agreement, all funds which as of that date were previously provided by OTTED and not expended by the COMMISSION shall revert to the State of Florida.

24. DISPUTE RESOLUTION:

The Parties agree they will seek to resolve any disputes between them regarding their responsibilities as soon as possible and at the lowest level reasonable, in order to conserve the resources of the Parties. The Parties further agree to use their best efforts to assure speedy and non-confrontational resolution of any and all disputes between them. If informal efforts are unsuccessful, the parties agree to engage a mutually accepted volunteer mediator to assist them in resolving any outstanding issues.

25. SEVERABILITY:

If any term or provision of this Agreement is found to be illegal, invalid, or unenforceable, then such term or provision shall be severed from this Agreement. This

Agreement and the rights and obligations of the Parties shall be construed as if this Agreement did not contain such severed term or provision, and this Agreement otherwise shall remain in full force and effect.

26. PRESERVATION OF REMEDIES:

No delay or omission to exercise any right, power, or remedy accruing to either Party upon breach or default under this Agreement will impair any such right, power, or remedy of either Party, nor will such delay or omission be construed as a waiver of any such breach or default or any similar breach or default.

27. DISCRIMINATORY VENDOR:

The COMMISSION affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes, and that at no time has the COMMISSION been placed on the Discriminatory Vendor List. The COMMISSION further agrees that it shall not violate such law and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

28. NON-DISCRIMINATION:

The COMMISSION shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, race, sex, creed, color, handicap, national origin, or marital status.

29. HARASSMENT-FREE WORKPLACE:

The COMMISSION shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The COMMISSION shall insert a provision in accordance with this Section, in all subcontracts for services in relation to this Agreement.

30. PUBLIC ENTITY CRIMES:

The COMMISSION affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes, and that at no time has the COMMISSION been convicted of a Public Entity Crime. The COMMISSION agrees that it shall not violate such law and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

31. UNAUTHORIZED ALIENS:

OTTED shall consider the employment by any contractor or subcontractor of unauthorized aliens as described by Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for termination of this Agreement.

32. NONPAYMENT OF TAXES:

The COMMISSION acknowledges that the State of Florida, by virtue of Section 212.08(6), Florida Statutes, is not required to pay taxes on services or goods provided pursuant to this Agreement.

33. LOBBYING:

- a. The COMMISSION shall not use any funds received pursuant to this Agreement for lobbying the Legislature, the judicial branch, or any state agency.
- b. The COMMISSION will keep OTTED apprised on a current basis regarding requests for testimony before state legislative committees.

34. ATTORNEY FEES:

Unless authorized by law and agreed to in writing by the parties, neither party shall be liable to pay attorney fees, interest, or cost of collection.

35. NON-ASSIGNMENT:

- a. Except as otherwise provided in this Agreement, neither party may assign, delegate, nor otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any assignment, delegation, or transfer otherwise occurring will be null and void.
- b. Notwithstanding the foregoing and subject to applicable law, OTTED shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the COMMISSION.

36. ENTIRE AGREEMENT:

This Agreement and the attached Exhibits A, B, C, and D, constitute a complete and exclusive statement of the terms and conditions of the Agreement and supersedes and replaces any and all prior negotiations, understandings and Agreements, whether oral or written, between the Parties with respect thereto. Except as expressly provided in this Agreement, no term, condition, usage of trade, course of dealing or performance, understanding or Agreement purporting to modify, vary, explain or supplement the provisions of this Agreement shall be effective or binding upon the Parties unless agreed to in writing by the party against whom enforcement is sought.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

OTTED:

**STATE OF FLORIDA, EXECUTIVE
OFFICE OF THE GOVERNOR,
OFFICE OF TOURISM, TRADE, AND
ECONOMIC DEVELOPMENT**

DR. PAMELLA J. DANA, Director

DATE: _____

WITNESS

THE COMMISSION:

FLORIDA COMMISSION ON TOURISM

THOM STORK, Vice Chair

DATE: _____

WITNESS

EXHIBIT A

Scope of Work Fiscal Year 2005-2006

I. Duties, Obligations, and Reports:

- A. The COMMISSION, through VISIT FLORIDA, shall assist OTTED in the preparation of any report or document that involves tourism-related matters.
- B. On or before July 1 of each year, the COMMISSION shall annually provide OTTED with:
- written certification that all fiscal controls and audit mechanisms required by law are implemented to assure compliance with the reporting requirements of Chapter 288, Florida Statutes, by the COMMISSION and VISIT FLORIDA.
 - written certification that it has in place an Operating Agreement with VISIT FLORIDA.
 - written certification that it has in place an agreement with the Department of Transportation regarding the operation of the Welcome Centers which conforms to the requirements of Section 288.12265, F.S.
- C. The COMMISSION, through VISIT FLORIDA, shall provide the quarterly information to OTTED at the following the schedule shown below:

<u>Reporting Period</u>	<u>Due Date</u>
April 1, 2005 – June 30, 2005	September 30, 2005
July 1, 2005 – September 30, 2005	December 31, 2005
October 1, 2005 – December 31, 2005	March 31, 2006
January 1, 2006 – March 31, 2006	June 30, 2006

Quarterly reports will be delivered to OTTED no later than October 31, January 31, April 30, and June 30 for the respective quarters.

- D. On or before September 30 of each year, the COMMISSION shall submit to OTTED an annual report on the Performance Measures in *Exhibit B Performance Measures* for the previous fiscal year.
- E. On or before September 30 of each year, the COMMISSION, through VISIT FLORIDA, shall report to OTTED the amount of private sector contributions, based on the requirements and categories listed in Section 288.124 (4) (c), F.S. The report shall reflect the contributions for the previous fiscal year.
- F. The materials that shall be contained in each COMMISSION's quarterly report are as follows:
- an update on the Performance Measures contained in *Exhibit B Performance Measures* of this Agreement;

- ii. a quarterly report containing the items specified in Section 288.1226 (7), Florida Statutes;
 - iii. a quarterly report on its expenditures with minority and women-owned businesses; and
 - iv. any additional documents required by this Agreement.
- G. On or before November 30 of each year, the COMMISSION shall provide an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant pursuant to Generally Accepted Auditing Standards and Section 288.1226(6), Florida Statutes. The annual audit shall be in accordance to Sections 11.45 and 215.97, Florida Statutes. The COMMISSION shall submit to OTTED two copies of the audit report and a copy of any other auditor recommendations as a result of the audit. A letter shall accompany the above, detailing corrective action taken by the COMMISSION on any adverse findings or recommendations of the auditors. The report may not reveal the identity of any person who has anonymously made a donation to the COMMISSION.
- H. On or before September 30, 2006, the COMMISSION shall prepare and file with the Chief Financial Officer, using generally accepted accounting principles, the financial and other information necessary for the preparation of annual financial statements for the State of Florida as of June 30, 2005. Financial information and other information as necessary for the preparation of annual financial statements for the fiscal year ending June 30, 2005, will be provided to the OTTED by the date specified by the Chief Financial Officer.
- I. The COMMISSION prepared, approved and submitted a Four-Year Plan in December of 1996, pursuant to Section 288.1224 (4), Florida Statutes. On or before December 31 of each year, the COMMISSION shall supply to OTTED and those entities listed in Section 288.1227, Florida Statutes, revisions of the Plan per Section 288.1224 (4), Florida Statutes.
- J. On or before November 30 of each year, the COMMISSION, through VISIT FLORIDA, shall prepare and submit to OTTED an Annual Report containing all the items specified in Section 288.1227, Florida Statutes.
- K. On or before November 30 of each year, the COMMISSION, through VISIT FLORIDA, shall make recommendations on the tourism portion of the annual Governor's report to the Legislature on the state of the business climate and economic development in Florida.
- L. The COMMISSION, through VISIT FLORIDA, shall provide to OTTED copies of all reports it publishes for distribution to the general public.
- M. The COMMISSION, through VISIT FLORIDA, shall provide to OTTED an annual report on the incremental economic impact of marketing, sales, and visitors services programs measured during the year.
- N. The COMMISSION shall monitor the outcome and output measures of its Fiscal Year Long-Range Program Plan. The Long Range Program Plan is described in Section 216.013, Florida Statute.
- O. The COMMISSION shall contract with VISIT FLORIDA for staff support and supervision of the tourism promotion activities, pursuant to Sections 288.1224(1) and 288.1224(10), Florida Statutes. The contract shall be known as the "Operating Agreement." Employees of

VISIT FLORIDA, and not employees of any state agency, shall perform support and supervision. The COMMISSION shall provide OTTED with a copy of the updated Operating Agreement when executed.

- P. The COMMISSION shall be responsible for the operation of the welcome centers and for all welcome center staff pursuant to Section 288.12265, Florida Statutes. The COMMISSION shall contract with VISIT FLORIDA to employ all welcome center staff. The COMMISSION shall continue the selection, display, and distribution of tourism information through the Florida welcome centers, including the Capitol welcome center. All funds received by the COMMISSION as the result of the operation of these programs shall be separately accounted for, deposited in appropriate accounts for VISIT FLORIDA, and used exclusively for the enhancement of welcome center functions and operations in accordance with the Four-Year Marketing Plan.
- Q. The COMMISSION has assumed the responsibility of operating foreign offices and will continue to do so, as authorized by Section 288.012, Florida Statutes.
- R. On or before June 30 of each year, the COMMISSION shall submit to OTTED the grant recommendations for the Minority Convention Grants. The COMMISSION is authorized to establish a minority convention grants program for the purpose of attracting national conferences and conventions to Florida pursuant to Section 288.124, Florida Statutes. The COMMISSION shall establish guidelines governing the awarding of the grants and administering the program.
- S. On or before June 30 of each year, the COMMISSION shall submit to OTTED the grant recommendations for the Cooperative Advertising Matching Grants. The COMMISSION is authorized to established a cooperative advertising matching grants program for the purpose of publishing tourism advantages of the State pursuant to Section 288.017, Florida Statutes. The COMMISSION shall establish guidelines governing the awarding of the grants and administering the program.
- T. On or before June 30 of each year, the COMMISSION shall submit to OTTED the results of a client satisfaction survey. The COMMISSION, though VISIT FLORIDA, shall contract with an independent research vendor who specializes in surveys and/or marketing research to conduct a comprehensive satisfaction survey of VISIT FLORIDA's *Partners* and non-*Partner* representative members of the tourism industry to determine if the tourism industry is satisfied with the efforts of VISIT FLORIDA to promote Florida tourism. (Exhibit B, *Performance Measures*)
- U. The COMMISSION shall continue the collection of date relative to visitor counts and visitor profiles by means of the methodology contained in the current Memorandum of Agreement between the COMMISSION and the Consensus Estimating Conference Principals defined in Section 216.136, Florida Statutes. Any contractual agreement between the COMMISSION and VISIT FLORIDA concerning the collection of tourism research date should include this commitment.
- V. The COMMISSION shall direct VISIT FLORIDA to maintain an Economic Risk Response Fund. Monies in this fund shall be used only to respond to circumstances which have caused,

or have the serious potential to cause, a decline in Florida's tourism industry. The parties agree that VISIT FLORIDA established this fund and that the fund was expended in response to the four hurricanes during the fall of 2004.

Assuming that OTTED has made all payments to the Commission from the Tourism Promotion Trust Fund, as provided in Section 8 of this Agreement, the Commission shall certify to OTTED, no later than September 30, 2006, that VISIT FLORIDA has deposited \$2 million into the Economic Risk Response Fund. Additionally, the Commission shall certify that any dollars expended from the fund have been expended in accordance with this section.

The President and CEO of VISIT FLORIDA, in consultation with the Vice Chair of the COMMISSION, may spend or encumber up to \$300,000 from the Fund per risk circumstance. Funds above this amount shall be released only in consultation with the COMMISSION and the Executive Office of the Governor.

- W. Pursuant to s. 288.0655(4), Florida Statutes, the COMMISSION through VISIT FLORIDA shall participate, with Enterprise Florida, the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, and others as appropriate, with OTTED in the development of guidelines and criteria governing submission, review, evaluation and funding of applications for the Rural Infrastructure Fund grant program. Pursuant to s. 288.0655 (3), Florida Statutes, the COMMISSION through VISIT FLORIDA shall also participate with the organizations listed above in the review and evaluation of the applications and the economic benefit of the projects and their long-term viability for recommendation to OTTED for its final decision. The Commission through VISIT FLORIDA and in conjunction with Enterprise Florida will make the information about the program, which is approved by OTTED available to rural communities and organizations, which may be eligible.

II. Strategic Partnerships:

- A. As a vital component in the economic growth of the state, the COMMISSION, through VISIT FLORIDA, agrees to work closely, where appropriate and beneficial, with OTTED's partners--Enterprise Florida, Inc., Florida Black Business Investment Board, Inc., Florida Sports Foundation, Florida Space Authority, and Florida Aerospace Finance Corporation, OTTED's Office of Film and Entertainment as well as appropriate state agencies such as the Department of State, Department of Environmental Protection, Department of Transportation, and the Fish and Wildlife Conservation Commission.
- B. The President of VISIT FLORIDA, or a senior level officer designee, shall attend periodic strategy meetings called by OTTED. These meetings are designed to increase the communication and cooperation among OTTED's various partners and improve the efficiency in economic development projects.
- C. In addition to those projects surfaced during these periodic meetings, the COMMISSION agrees to independently seek projects and promotional opportunities with the intent of involving one or more of OTTED's partners or appropriate state agencies.

EXHIBIT B

Performance Measures Fiscal Year 2005-2006

Purpose: To oversee the state's efforts to increase the positive impact on tourism, including increased employment for state citizens, to all sectors of the economy through effective marketing activities; to continually upgrade the image of Florida as a quality destination; to promote tourism objectives with all, geographic socioeconomic and community sectors considered equitably, and to judge its efforts by the same standards of accountability and integrity as those used by successful, respected private sector businesses.
Section 288.1223(1), F.S.

	Legislative Implementing Bill Performance Measures	Standards
Outcome	Sustained growth in the number of travelers who come to and go through Florida	
Outcome	(I) Out-of-state	73.42 million
Outcome	(II) Residents	14.6 million
Outcome	Sustained growth in the beneficial impacts that travelers in Florida have on the state's overall economy	
Outcome	(I) Rental Car surcharge	\$132.36 million
Outcome	(II) Tourism-related employment	887,448
Outcome	(III) Taxable sales	\$51.99 billion
Outcome	(IV) Local option tax	\$305 million
Outcome	Growth in private sector contributions to VISIT FLORIDA	\$60.3 million
Outcome	Satisfaction of VISIT FLORIDA's partners and representative members of the tourism industry with the efforts of VISIT FLORIDA to promote Florida tourism	81%
Output	Percentage increase of persons surveyed who vacationed in Florida during the last 12 months and who reported having participated in nature-based or heritage activities	55%
Outcome	Return on Investment: State sales tax collections compared to the cost of producing and airing the advertisements	TBD
Output	Number of persons who inquired about nature-based or heritage activities while visiting the consumer web-site	357,204
Output	Number of impressions from paid advertising	605 million
Output	Number of leads and visitor inquiries generated by VISIT FLORIDA events and media placements	4.1 million
Output	Number contacting VISIT FLORIDA in response to advertising (Subset of number of leads and visitor inquiries)	505,000
Output	Value/number of consumer promotions facilitated by VISIT FLORIDA	\$37 million/230
Output	Number of private sector partners	3,708
Output	Private sector partner financial contributions through direct financial investment	\$2.5 million
Output	Private sector partner financial contributions through strategic alliance programs	\$1.1 million

EXHIBIT C

Sanctions Fiscal Year 2005-2006

I. Sanctions for Reporting Requirements

- A. OTTED may impose a monetary sanction on the Florida Commission on Tourism for any of the following reasons:
 - 1. The COMMISSION fails to submit any of the reports required by the Agreement within five working days of the due dates,
 - 2. The COMMISSION fails to demonstrate to OTTED's satisfaction that it has met a reporting requirement of the Agreement and does not respond satisfactorily to OTTED's request for corrective action within five working days of notification.
- B. The following sanction will apply and remain in effect until the COMMISSION has corrected or met the deficiency that led to the sanction. The sanction is intended to act as an incentive for contract compliance and is not intended to be punitive. Sanctions shall not be imposed for using innovative methods or making changes in programs with the intent to achieve greater efficiency and effectiveness.
 - 1. OTTED will reduce the amount of funds to the COMMISSION by one percent of the COMMISSION's approved compensation for the quarter of noncompliance and subsequent quarters until the deficiency has been cured.
- C. Sanctions will be imposed only after the completion of all efforts at resolving any disputes between the parties as provided in Article 14 of the Agreement.



VISIT FLORIDA
661 East Jefferson Street
Suite 300
Tallahassee, Florida
32301
T (850) 488-5607
F (850) 224-9589
www.flausa.com

OPERATING AGREEMENT FOR DIRECT-SUPPORT ACTIVITIES
between
THE FLORIDA TOURISM INDUSTRY MARKETING CORPORATION, INC.,
Doing Business as VISIT FLORIDA
and
THE FLORIDA COMMISSION ON TOURISM

WHEREAS, the Florida Tourism Industry Marketing Corporation, Inc., doing business as VISIT FLORIDA ("the Corporation") was established in 1995 by the Florida Commission On Tourism ("the Commission") to serve as the Commission's direct-support organization;

WHEREAS, the cooperation with the private sector, the Commission is charged by law with the duty of preparing a four-year marketing plan designed to sustain the growth of Florida tourism ("the Four-Year Plan");

WHEREAS, the Commission desires to contract with the Corporation to execute certain tourism marketing and promotional services, functions, and programs, including activities described in the Four-Year Plan;

WHEREAS, it is necessary to define the duties of the corporation in order to maximize the benefits that will flow from this innovative public-private partnership in support and promotion of Florida's vital tourism industry;

WHEREAS, the Commission is responsible for the prudent use of all public and private funds devoted to the marketing and promotion of Florida tourism in accordance with all laws, bylaws and contractual requirements; and

WHEREAS, in carrying out its public responsibilities, the Commission is to judge its efforts by the same standards of accountability and integrity used by successful and respected private sector businesses.

THEREFORE, the Commission and the Corporation enter into this Operating Agreement for Direct-Support Activities ("the Operating Agreement"):

first, to define the contractual basis on which the Corporation will assume responsibility for tourism planning, promotion, and marketing under the direction of the Commission;

second, to prescribe the conditions with which the Corporation must comply in order to use property and facilities of the Commission in carrying out its duties under this Operating Agreement; and

third, to establish standards of performance and accountability consistent with the need to maintain public confidence in state expenditures from the Tourism Promotional Trust Fund and accountability for all funds received by the Corporation for the advancement of Florida tourism.

Article I. Responsibilities of the Corporation

A. **Conditions of Participation.** In order to remain eligible for participation as the official direct-support organization of the Commission, the Corporation must comply at all times with the following conditions:

1. **Equal Opportunity Employer.** The Corporation shall not discriminate against any employee, nor against any applicant for employment because of age, race, sex, creed, color, handicap, national origin, or marital status. The Corporation shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.
2. **Nonprofit Corporation.** The Corporation shall maintain good standing as a Florida corporation which is not for profit, as defined in Chapter 617, *Florida Statutes* and Section 501(c)(6) of the Internal Revenue Code of 1986, as amended.
3. **Adequate Fiscal Records.** The Corporation shall maintain at all times adequate account books, computer databases, and other fiscal records that are necessary and sufficient to allow appropriate levels of budget oversight and audit review by the Commission, Office of Tourism, Trade and Economic Development ("OTTED"), and the Chief Inspector General.
4. **State-Funded Lobbying Expenditures Prohibited.** The Corporation shall ensure that no funds derived from State grants and aids appropriations provided to the Corporation pursuant to this Agreement are expended for the purpose of lobbying the Legislature, the judicial branch, or a state agency, provided, however, that nothing in this Agreement shall be deemed to prohibit the Corporation from expending funds received or derived from private and other non-State contributions and sources for the purpose of funding lobbying activities on behalf of the Corporation.

5. Annual Post Audit. The Corporation shall make provision for an annual post audit of its financial accounts to be conducted by an independent certified public accountant and due on November 1 of each year. The Corporation shall separately account for the trust funds and the funds deposited in its accounts. The audit shall be in conformance with rules of the Auditor General promulgated pursuant to Section 11.45, *Florida Statutes*, and shall demonstrate compliance with Section 216.349, *Florida Statutes* by the Corporation.
6. Funding Match Support and Participation Plan. The Corporation shall establish and maintain a plan for private-sector support and participation in the Corporation which will provide additional private-sector funding for the administration and activities of the Corporation. The goal of this plan shall be dollar-for-dollar matching of private to public contributions, in accordance with s. 288.1224(4) (c), *Florida Statutes*, which will be achieved by the end of the fiscal year ending June 30, 2001.
7. Compliance with state, federal, and local laws. The Corporation shall insure that it complies with all state, federal, and local laws in its execution of this agreement.

B. **Quarterly Reports.** The Corporation shall provide quarterly reports to the Commission no later than 30 days after the conclusion of each calendar quarter. The quarterly report shall include the following:

1. An examination of the current vitality of the visitor industry of the State of Florida in comparison to previous quarterly and to the same quarter of the prior year tabulations of statistical data relative to industry vitality;
2. Detailed, unaudited financial statements of sources and uses of funds received during the quarter;
3. A written report as to progress made by the Corporation towards fulfillment of the applicable goals and objectives set forth in the current year of the Four-Year plan; and
4. Such other information as the Commission or OTTED may prescribe for inclusion in the quarterly report.

C. **Annual Reports.** Not later than November 1 of each year, the Corporation shall prepare for Commission review and adoption a draft annual report regarding tourism promotion and marketing activities carried out under the supervision of the Commission during the most recently concluded fiscal year. The report is intended for submission to the Governor, the director of OTTED, ranking legislative officers and other persons as specified by law, and must contain the following:

1. A complete and detailed description of the operations and accomplishments of the Commission and the Corporation during the fiscal year;
2. Business, operational, and tourism marketing plans, including recommendations for implementation and funding of the tourism marketing plan;
3. A balance sheet reflecting the assets and liabilities of the Corporation for the report fiscal year; and
4. A copy of the annual financial and compliance audit of the Corporation required by Section 1(A) of this Operating Agreement for the report fiscal year.

The Corporation shall assist the Commission and the Governor in preparing an annual report to the Florida Legislature on the state of the business climate and economic development in Florida with respect to matters relating to tourism promotion and marketing.

D. **Foreign Tourism Offices.** As directed by the Commission, the Corporation shall establish and operate, on behalf of OTTED and in compliance with provision of any contractual agreement between the Commission and OTTED, foreign tourism offices ("FTO"). All FTOs will be established and operated in accordance with plans of operation approved by OTTED and with all provision of applicable law. When exemptions are approved pursuant to Section 288.012(2), Florida Statutes, the terms of the exemption shall be incorporated in the plan of operation for any FTO(s) subject to the exemption.

1. The Corporation shall prepare detailed plans of operation for each FTO for approval by the Commission and OTTED. In the event that it becomes necessary to seek exemption from the provision of law applicable to the operation of a FTO, the Corporation shall prepare appropriate amendments to the plan of operations for each such FTO for approval by the Commission and OTTED prior to submission to the Governor.

E. Cooperative Advertising Grants. The Corporation shall administer an annual competitive selection process to determine which candidates should be recommended by the Commission to OTTED as recipients of cooperative advertising grants under Section 288.017, Florida Statutes. The Corporation shall assist the Commission and OTTED to implement a program of grants to local governments and non-profit corporations serving and located in municipalities having populations of 50,000 or less and counties with unincorporated areas having populations of 200,000 or less.

1. The purpose of the grant program shall be to assist small cities and counties to publicize tourism advantages associated with the region of the State served by the eligible local government and nonprofit corporations.
2. Selection of grant recipients for recommendations to OTTED shall be based on demonstrated need for assistance with tourism promotional advertising; the feasibility and projected benefit to the State's overall promotional efforts; the amount of non-state revenue leveraged by the candidate as part of its proposal; and such other criteria as may be determined by OTTED after consultation with the Commission.

The Corporation shall establish a nomination process for candidates on a scale that takes into consideration the degree of private sector enhancement, if any, available for the program.

F. Convention Grants Program. The Corporation shall administer an annual RFP process to secure grant proposals for review by the Commission before it makes its recommendations to OTTED regarding expenditures and contracts with local governments and nonprofit corporations or organizations for the purpose of attracting national conferences and conventions to Florida. The corporation shall assist the Commission and OTTED to establish guidelines governing the award of grants and the administration of the grants program under Section 288.124, *Florida Statutes*, including specifications for grant application proposals and application deadlines.

1. In ranking applications for grants under the program, the Corporation shall give preference to applications by local governments and nonprofit corporations seeking to attract minority conventions to Florida.
2. Minority conventions are events that primarily involve minority persons, as defined in section 288.703, Florida Statutes who are residents or nonresidents of the state.

The Corporation shall establish an RFP process for candidates on a scale that takes into consideration the degree of private sector enhancement, if any, available for the program.

G. Four-Year Planning and Revision. The Corporation shall prepare for approval by the Commission a Four-Year Marketing Plan. For the initial plan, the Corporation shall use as its model the marketing plan format created by the Florida Tourism Commission established by chapter 91-31, Laws of Florida, and submitted to the Florida Legislature in 1992.

1. The plan shall be on-going in nature and revised on an annual basis. The Corporation shall prepare for Commission review and adoption a report and recommendations regarding a proposed annual revision of the Four-Year Plan no later than November 1 of each year.
2. In preparing the Four-Year Plan and its annual revisions, the Corporation may undertake, or contract for, marketing projects and advertising research projects.
3. The plan shall include:
 - a. an emergency response component;
 - b. research designs;
 - c. a plan through which the Corporation will be able to achieve a dollar-for-dollar matching of private to public contributions, in accordance with s. 288.1224 (4) (c), *Florida Statutes*, by the end of the fiscal year ending June 30, 2001; and
 - d. recommendations regarding specific performance standards and measurable outcomes.

H. Budget. The Corporation shall assist the Commission in developing all budgets needed for the implementation of direct-support activities. Following the initial implementation of private sector-based direct support activities, the Corporation shall prepare a draft annual budget for all activities subject to the oversight of the Commission for approval by the Commission and OTTED and submission to the Governor. This annual budget shall be consistent with the annual revision of the Four-Year Plan.

I. Maintenance of Effort. The Corporation shall maintain adequate managerial, administrative, technical, and clerical staffing to perform the duties required of it under this Operating Agreement. The Corporation shall implement the operational structure for tourism promotion and marketing developed by the

Commission no later than December 31, 1996. Staffing shall be sufficient to maintain and enhance the levels of tourism promotion and marketing services being performed by employees of the State of Florida on July 1, 1996.

1. The Corporation shall employ a chief executive officer who will in turn employ such other corporate officers and employees as are needed to carry out the direct-support activities required under this Operating Agreement. No officer or employee of the Corporation shall hold him- or herself out as an employee of the State of Florida.
2. The Corporation shall obtain and maintain appropriate levels of employee surety bonding and liability insurance sufficient to provide appropriate levels of coverage for its domestic and international activities under the Operating Agreement. In addition to any indemnification available under Chapter 617, *Florida Statutes*, the Corporation may indemnify, and purchase and maintain insurance on behalf of, directors, officers, and employees of the Corporation against any personal liability or accountability by reason of actions taken while acting within the scope of their authority.
3. After consultation with the Office of Program Policy Analysis and Government Accountability ("OPPAGA"), the Corporation shall recommend to the Commission a plan for monitoring its operations to ensure that performance data are maintained and supported by the Commission's records. Upon adoption of the plan by the Commission, the Corporation shall implement it as soon as possible.

J. **Visitor Research Methodology.** VISIT FLORIDA shall continue the collection of data relative to visitor counts and visitor profiles by means of the methodology contained in the current Memorandum of Agreement between the Commission and the Consensus Estimating Conference Principals as referenced in the Partnership Agreement.

K. **Specific Dates.** The Corporation shall perform duties in the following specific areas at the request of the Commission in such manner as the Corporation may determine to be most efficient and consistent with the Four-Year Plan. The Corporation shall assist the Commission in developing specific performance measures. Said specific performance measures shall be established prior to December 31, 1996. The performance of the Corporation will be assessed by means of the outcomes and results achieved measured against the benchmark of the Four-Year Plan in its annual revisions and the specific performance measures, when established. Further, the Corporation shall not be considered a state agency for the purposes of Chapter 120, 216, and 287, *Florida Statutes*; Sections 255.21, 255.25 and 255.254, *Florida Statutes*, relating

to the leasing of buildings; Sections 283.33 and 283.35, *Florida Statutes*, relating to bids for printing, Section 215.31, *Florida Statutes*; and part I, II and IV through VIII of Chapter 112, *Florida Statutes*. Provided, however, the Corporation shall be subject to the provision of Chapter 119, *Florida Statutes*, relating to public meeting, and those provisions of Chapter 286, *Florida Statutes*, relating to public meetings and records.

L. The Corporation will indemnify and save harmless the State of Florida and its employees and agents from liability of any nature or kind, including costs and expenses for or on account of any copyright, patent, or trademark acquired by the Commission or the Corporation.

M. The Corporation shall indemnify and hold OTTED harmless to the fullest extent possible, from and against any and all claims or demands for damages resulting from personal injury, including without limitation, death or damage to property, arising out of any activities performed under this Agreement and shall investigate and defend any and all claims at its own expense in accordance with the provisions of the Partnership Agreement.

N. If either the Corporation or the Commission is dissolved, the assets shall be distributed, after all obligations and liabilities have been paid, as determined by OTTED in consultation with the Commission, to the State of Florida or any agency thereof exclusively for a public purpose.

Article II. Responsibilities of the Commission

A. **Contract Administrator.** The Commission is designated by law as Contract Administrator on behalf of the State of Florida for the purposes of supervision and oversight of direct-support activities carried out by the Corporation under this Operating Agreement.

B. **Annual Funding of Corporation.** In accordance with the terms of the contract in effect between the Commission and OTTED, and any other restrictions imposed by law, the Commission, on an annual basis, shall make available for use by the Corporation in performing its direct support activities and other duties under this Operating Agreement a sum equal to 15.75% of the rental car surcharge annually dedicated to the Tourism Promotional Trust Fund pursuant to s.212.0606, *Florida Statutes*.

1. The annual contribution in dollars of the Commission to the support of the corporation for activities under this Operating Agreement shall be based upon the 15.75% of rental car surcharge proceeds dedicated by law to the Tourism Promotional Trust Fund and the amount of rental car

surcharges actually collected during the most recent State fiscal year as certified by the Florida Department of Revenue.

2. The annual contribution of the Commission shall be paid to the account of the Corporation in equal quarterly installments, as payment for services rendered, on the last day of each quarter (i.e., September 30, December 30, March 31, and June 30).

C. **Access to Facilities.** The Commission, in accordance with the terms of its July 1, 1996, agreement with OTTED defining access to property and facilities owned or controlled by the Former Department of Commerce, shall allow access to publicly-owned and privately-owned facilities controlled by the Commission by employees, agents, contractors and subcontractors of the Corporation for the purpose of performing direct-support activities under this Operating Agreement.

1. Access shall be limited to normal business hours except when longer access may be required for operational reasons at facilities such as welcome centers and other tourism information facilities; or when necessary for repair or maintenance of facilities or of equipment installed or maintained by the Corporation and its agents.
2. In exercising access privileges under this section, the Corporation, its employees, agents, contractors and subcontractors shall observe all security measures, including sign-in sheets, identification badges and related security identification methods required at facility locations where access is allowed. Violation of this subsection shall be deemed misconduct and proper cause for discipline and discharge of employees or agents found to be in violation of duly established security measures.

D. **Use Of Commission Property.** The Commission shall make available for use by the Corporation property owned and controlled by the Commission as authorized by the terms of its July 1, 1996, agreement with OTTED defining access to property and facilities owned or controlled by the former Department of Commerce.

1. In the event that property of the Commission is damaged or destroyed by employees or agents of the Corporation, the Corporation shall be responsible for the repair or replacement of the property, as appropriate.

2. Property of the Corporation located at facilities owned or controlled by the Commission shall be identified by appropriate inventory tags. The Corporation shall maintain separate inventories of Commission and Corporation property located at any facility administered by the Corporation on behalf of the Commission.

E. Information Exchange. The Commission shall make available for use by the Corporation all information received by the Commission in its official capacity.

1. The Commission and the Corporation shall work closely together to assure that advances in data transmission methods are implemented to link all Florida tourism interests with the global Internet and other developing interactive information exchange linkage such as the World Wide Web.
2. The Commission will use its best efforts to assure that current information regarding activities of the Corporation and its partners in Florida tourism promotion are reflected on State-sponsored information service venues such as the Florida Government Information Locator home page and the Florida Communities Network.

F. Official Florida Tourism Logo. The Commission grants the Corporation an exclusive license to adopt and make use of a distinctive graphical emblem or logo which shall, upon approval by the Commission, be recognized as the official Florida Tourism logo and used on all promotional materials directly produced by the Corporation. Following Commission approval of the logo design, the Corporation shall retain all intellectual property rights relative to the logo design, the rights to which shall be held in trust by the Corporation for the benefit of the public, including without limitation, patent, copyright, trade mark, and digital reproduction rights. The Corporation shall make no alteration in the officially-approved logo design without prior approval of the Commission.

1. The Commission further grants the Commission an exclusive license to utilize the official Florida Tourism logo for purposes of cooperative marketing, advertising, sales, and promotion to identify products and services that make significant contributions to the image of Florida as a quality destination for global tourism, as determined under standards established by the Commission in conjunction with OTTED.
2. The Corporation shall determine, after consultation with the Commission, appropriate cooperative marketing and promotional uses for the official Florida Tourism logo. The

Corporation shall set up licensing arrangements and reasonable fee schedules for the use of the official Florida Tourism logo in connection with events, products, services, and promotional activities carried out in the State and throughout the world.

3. The Corporation shall retain any net income derived from licensing of the use of the official Florida Tourism logo. Such income, if any, shall be separately accounted for in any official report required by this Operating Agreement, and used exclusively for the support of the tax-exempt activities of the Commission.
4. The Commission and the Corporation shall cooperate to prevent unfair or unauthorized use of the official Florida Tourism logo.

Article III.

Termination and Cancellation

- A. **Termination.** This Operating Agreement may be terminated upon 60 days written notice from either party.

Article IV.

Severability

- A. **Savings Clause.** In the event any portion of this agreement is declared invalid by a court of competent jurisdiction, such declaration shall not effect the validity of any other provision of this Operating Agreement, which shall remain in force and be administered as if the invalid provision had never existed.

Article V.

Term

- A. **Continuing Agreement.** This Operating Agreement is intended as a continuing framework for an on-going public-private partnership. It therefore has no fixed duration, but its terms shall be subject to regular periodic reexamination to accommodate changes in law and in economic, social, and environmental circumstances and requirements.
- B. **Nominal Term.** This Agreement shall remain in force and effect for a period of five (5) years from the date on which the Commission ratifies the acceptance of the Operating Agreement by the Corporation, and shall continue in effect from year to year thereafter if neither party give written notice to terminate or modify the Operating Agreement as provided herein.

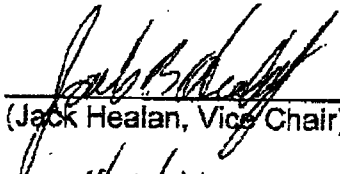
C. **Annual Review.** The parties shall review the terms of this Operating Agreement annually following the end of the regular Legislative session to determine whether any statutory amendments or changes in circumstances warrant alteration, modification, or other change in the provisions of the Operating Agreement. If either party determines that modification of the Operating Agreement is desirable, it may serve written notice on the other party indicating what modification(s) it proposes in accordance with Article VI of this Operating Agreement.

**Article VI.
Amendment of Operating Agreement**

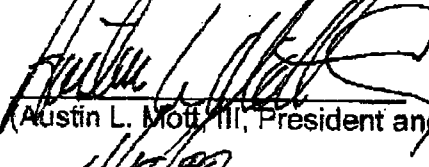
A. **Notice.** A party that desires to amend or otherwise modify any provision of this Operating Agreement shall give written notice to the other party, and serve a copy of its notice on OTTED, no later than 120 days before the scheduled expiration date of this Operating Agreement or within 30 days of the conclusion of the annual review of this Operating Agreement required by Article V, Section 3, whichever is latest.

IN WITNESS WHEREOF, the undersigned representatives of the parties have affixed their signatures on this Agreement on the date(s) indicated below.

FOR THE FLORIDA
COMMISSION ON TOURISM


(Jack Healan, Vice Chair)
Date 4/12/00

FLORIDA TOURISM INDUSTRY
MARKETING CORPORATION, INC.

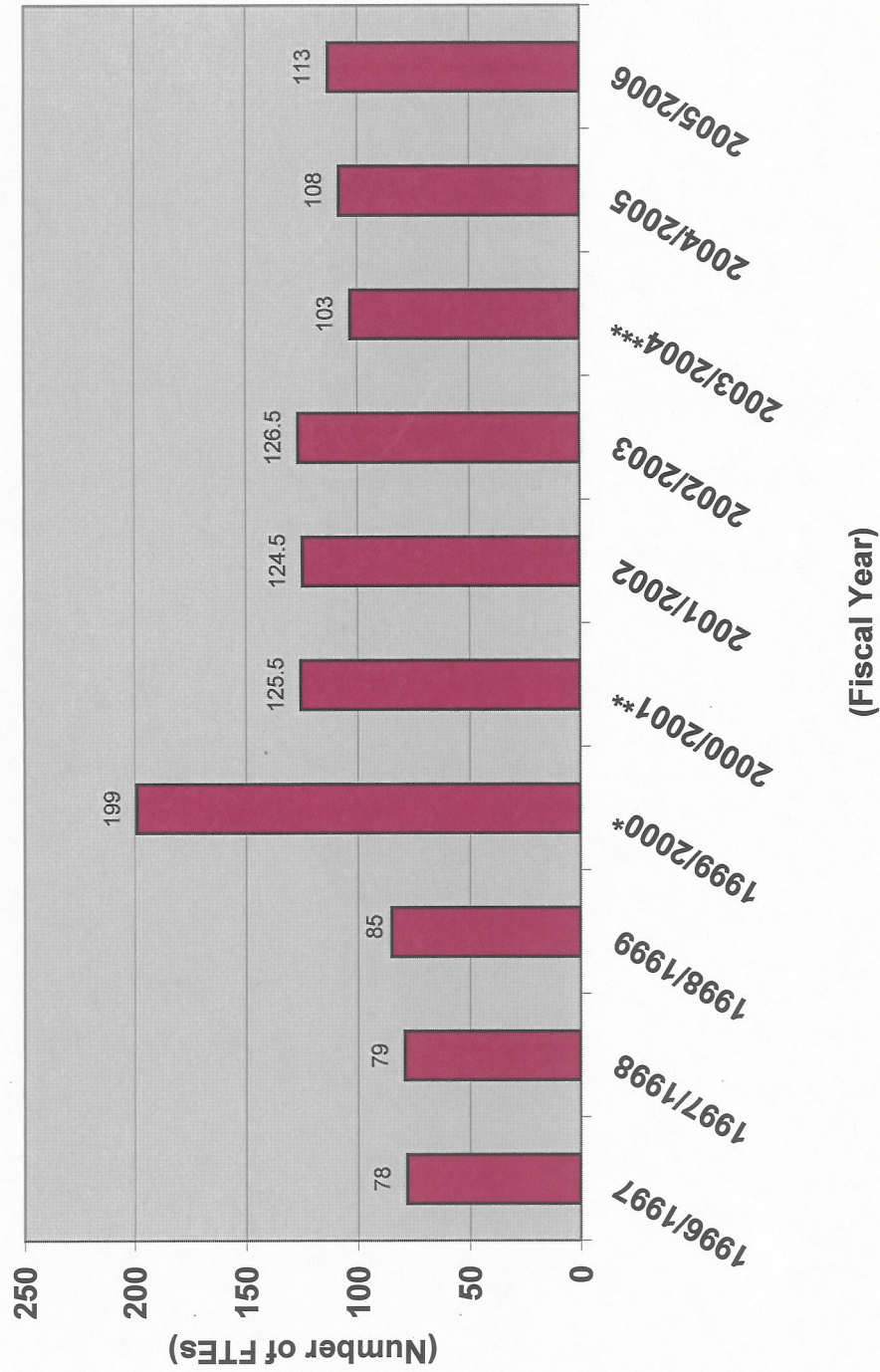

(Austin L. Mott, III, President and CEO)
Date 4/18/00

VISIT FLORIDA



Organizational Chart shows 113 staff

VISIT FLORIDA STAFFING



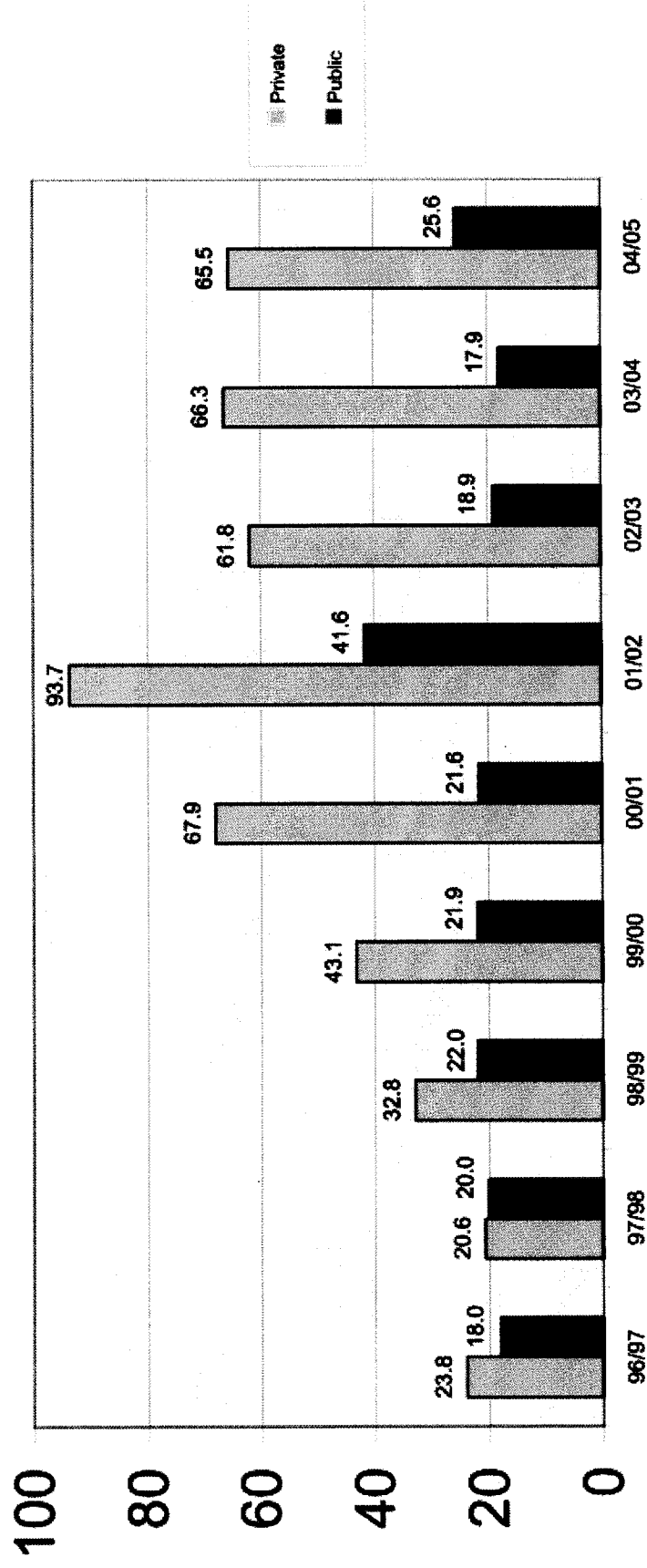
* Took over DOT staff of 44.5 over 2 years

** Added NPD staff of 5

*** Staff reduction because of budget cuts

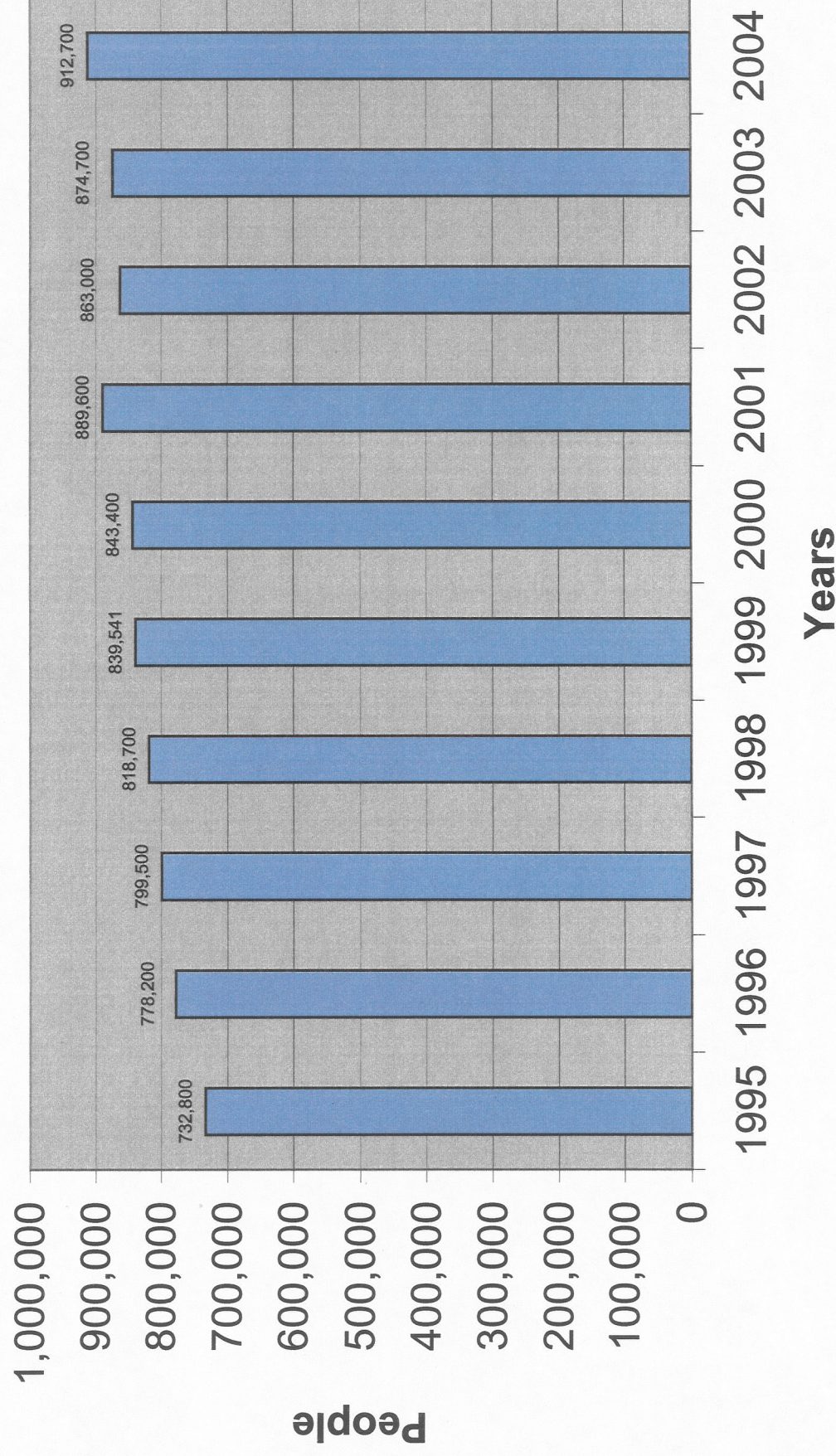
VISIT FLORIDA

Actual Revenues: 1996-2005



Source: VISIT FLORIDA

Direct Travel - Related Employment in Florida

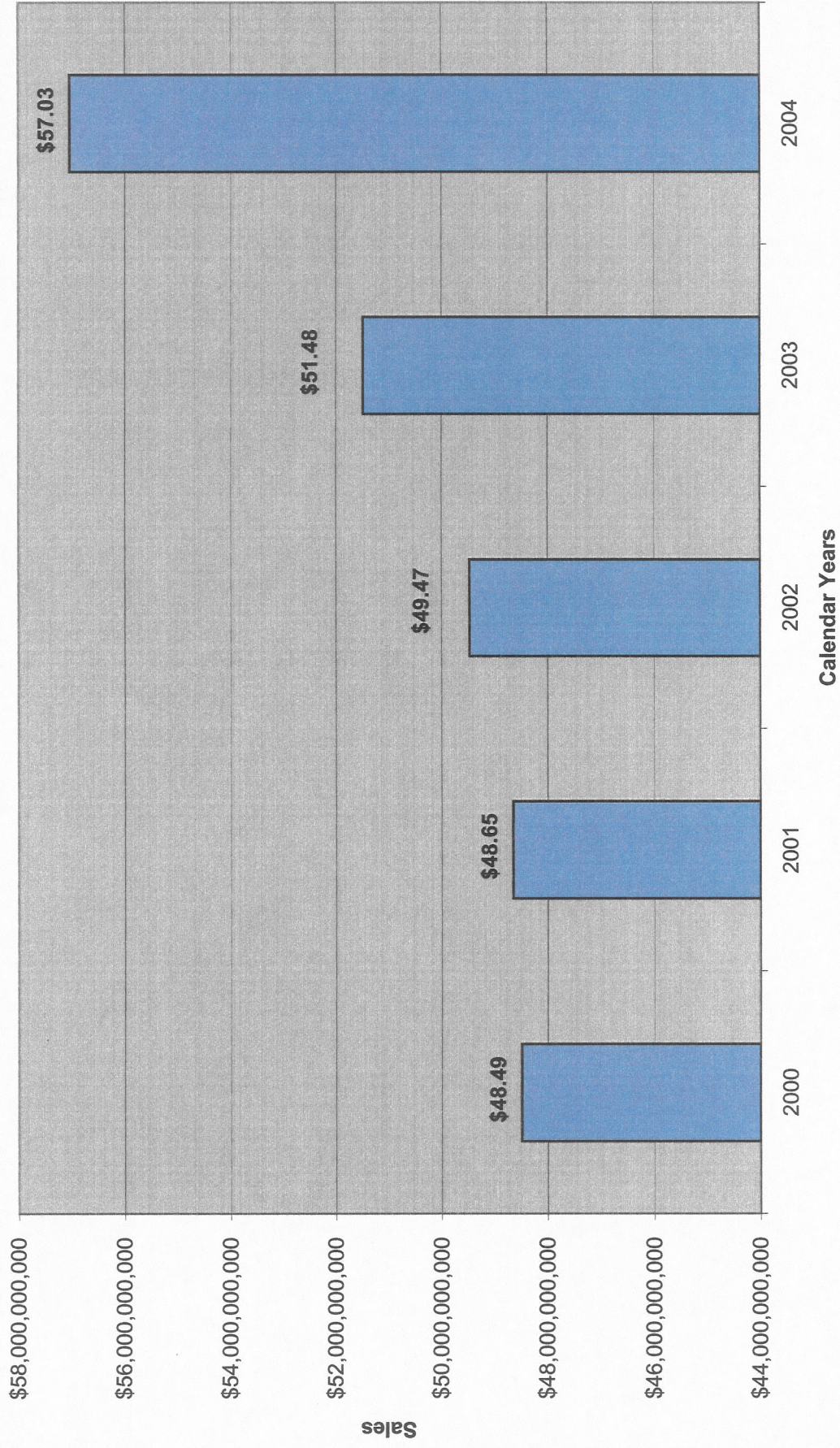


Total Visitors to Florida

(in millions)



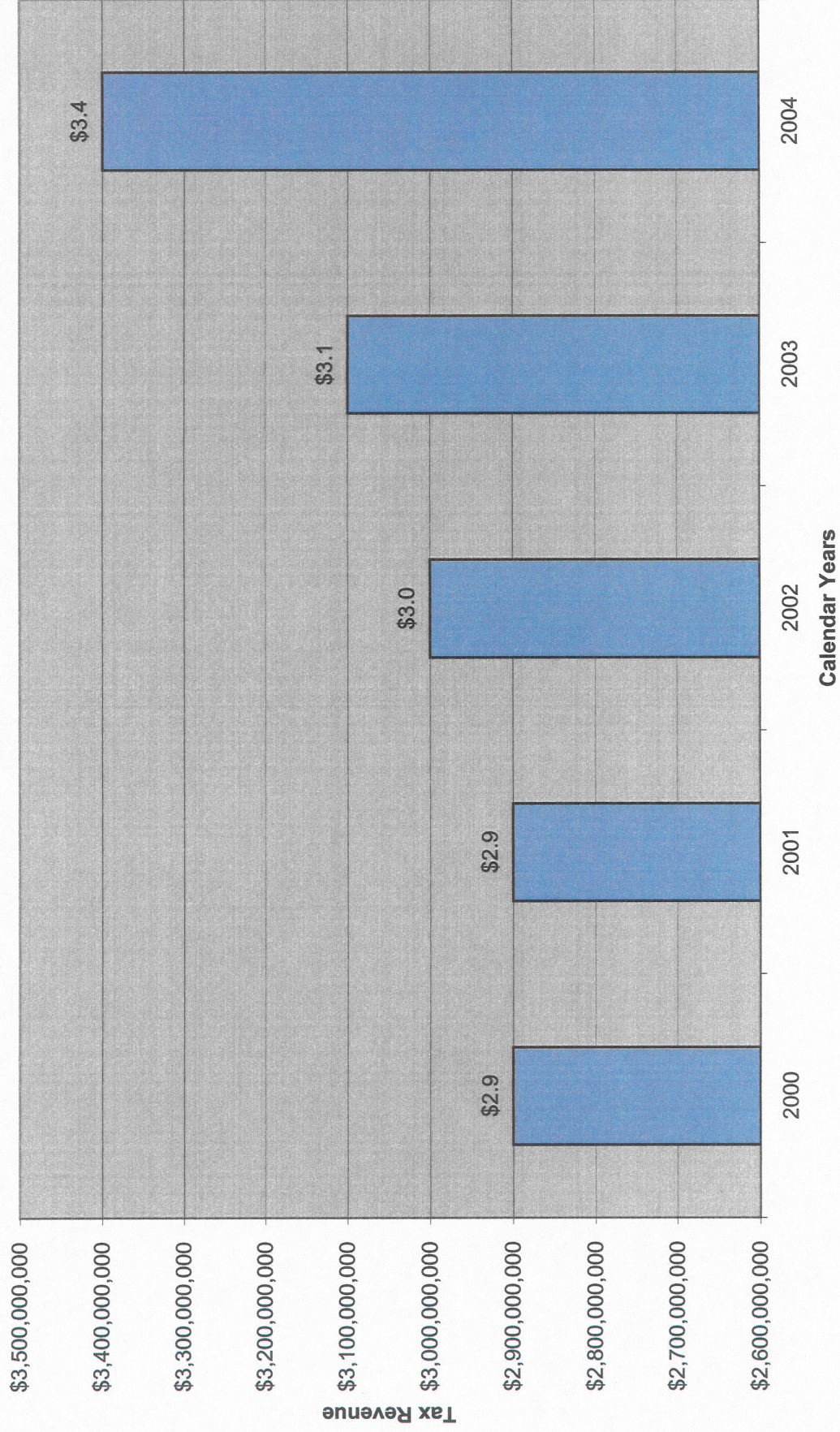
Florida Tourism/Recreation Sales (in billions)



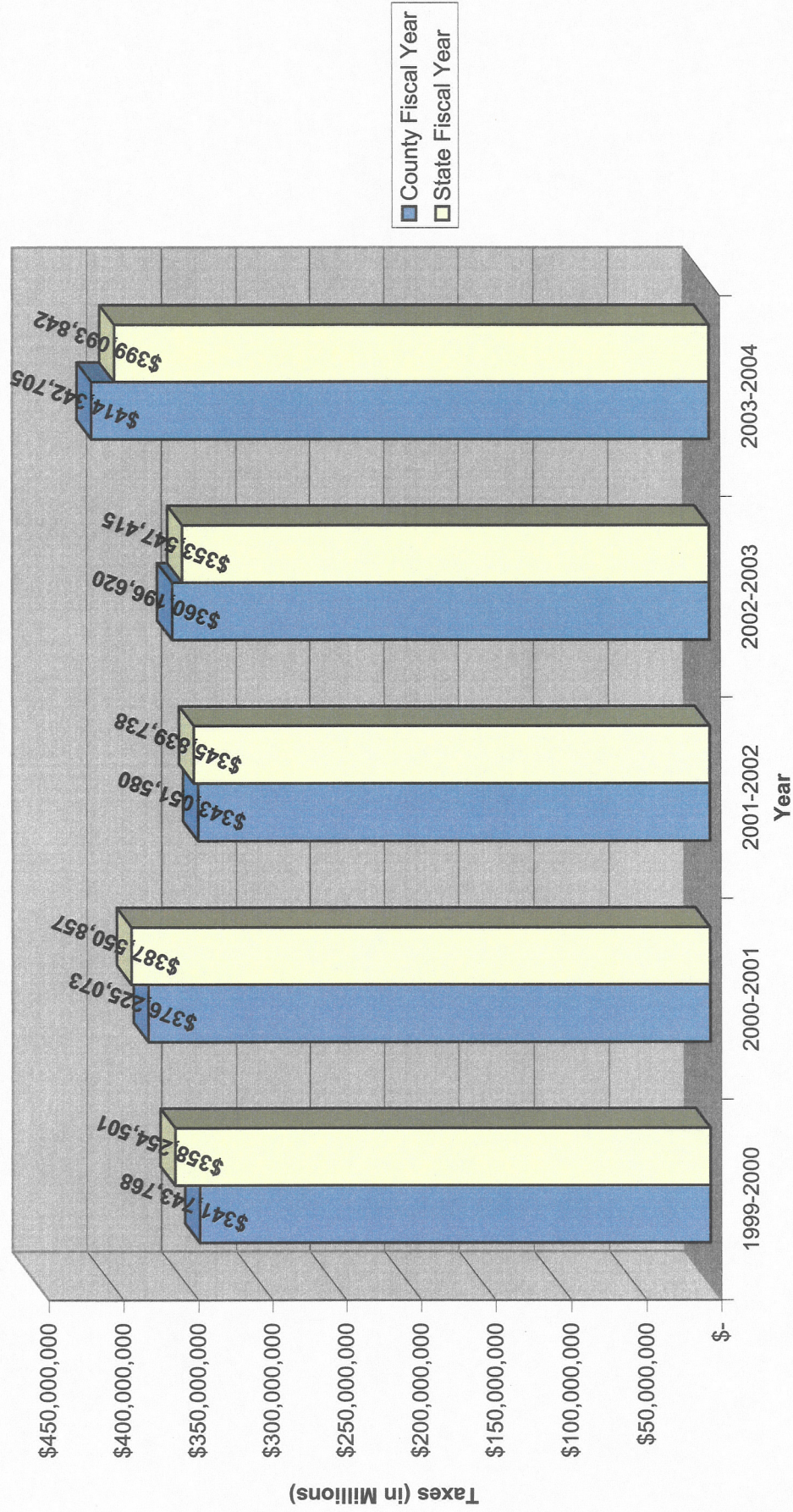
Source: VISIT FLORIDA, Dept. of Revenue

Note: Figures for CY 2000 - 2002 are lower than attributed to those sales taxes in order to provide comparability over the 5 year period. The difference in funds is related to a tax kind code removed in 2003.

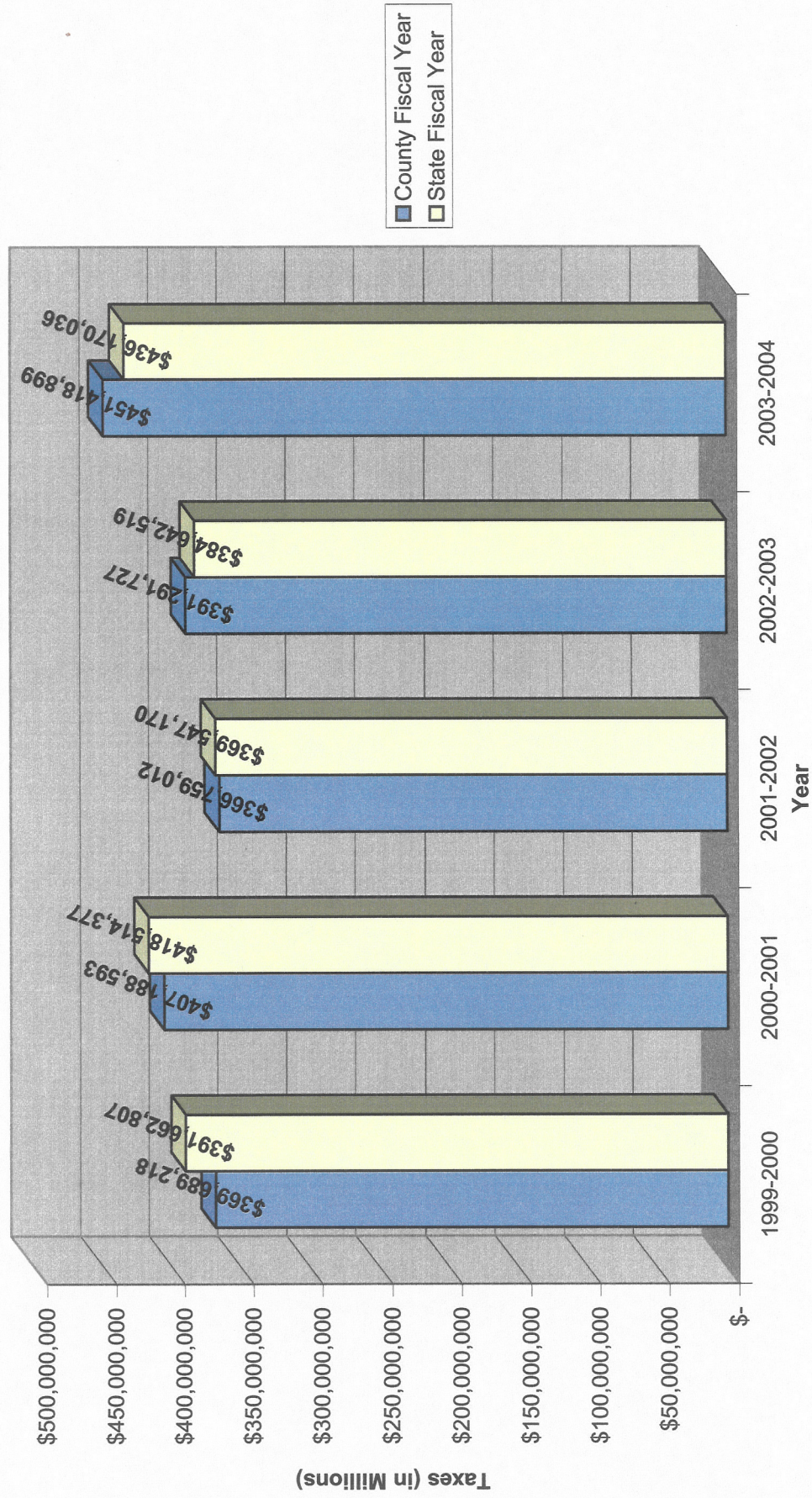
Florida Tourism/Recreation Sales Tax Revenue (in billions)



**Local Option Tourist-Related Taxes
(without Municipal Resort & Food and Beverage Taxes -- Dade County Only Taxes)**



**Local Option Tourist-Related Taxes
(with Municipal Resort & Food and Beverage Taxes -- Dade County Only Taxes)**



Quarterly Update on 2004-2005 Performance Measures

Final Report on Performance Measures

2004-2005

September 30, 2005
For July 2004 -June 2005

Measure	Annual Standard 2004-2005	Performance last Year July - June, 2004	Performance this Year July - June, 2005	Change from Last Year
Sustained growth in the number of travelers who come to and go through Florida.				
Out of State	73.42 M	80.3 M (1)	83.7 M	3.4 M
Residents	14.6 M	14.0 M	13.4 M	- 0.6 M (2)
Sustained growth in the beneficial impacts that travelers in Florida have on the state's overall economy.				
Rental car surcharge	\$132.36 M	\$117.8 M (3)	\$133.4 M (3)	15.7 M
Tourism related employment	887,448	893,400 (4)	927,400	34,000
Taxable sales	\$51.99 B	\$50.38 B (5)	\$54.85 B (5)	4.47 B
Local option tax	\$305 M	\$245.7 M (6)	\$290.3 M (6)	44.6 M
Growth in private sector financial contributions to the FTIMC	\$60.3 M	\$66.3 M	\$65.5 M	- \$.8 M (7)
Satisfaction of VISIT FLORIDA's partners and representative members of tourism industry with efforts of VISIT FLORIDA	81%	83%		
Percentage increase of persons surveyed who vacationed in FL during last 12 months who participated in nature/heritage activities	55%	Nature: 70.3% Heritage: 49.7%	Nature: 67.9% Heritage: 44.4%	Nature: -2.4 Heritage: -5.3
Return on Investment: State sales tax collections compared to the cost of producing and airing the advertisements	TBD	N/A	N/A	N/A
Number of persons who inquired about nature-based or heritage activities while visiting the consumer website	357,204	641,989	1,084,936	442,947 (8)
Quality and effectiveness of paid advertising messages reaching the target audience.				
Impressions	605 M	948 M	3,550,605,299	2,602,605,299 (9)
Leads	505,000	833,932	275,597	- 558,335 (10)
Value of consumer promotions and number of promotions facilitated by FTIMC.	\$37 M/ media value/230	\$38,818,053 media value/294	\$37,860,689 media value/304	- 957,364 (11) media value/+10
Number of leads and visitor inquiries generated by FTIMC events and media placements.	4.1 M	8,546,902	10,990,143	2,443,241
Number of private sector partners	3,708	3,528	3,432	- 96 (12)
Level of financial contributions through direct financial investment	\$2.5 M	\$2,614,235	\$2,542,190	- \$72,045 (12)
Strategic alliance programs.	\$1.1 M strategic alliance	\$1,079,591 strategic alliance	\$1,071,095	- \$8,496 (13)

Please see the next page for explanations of Notes 1 - 13.

Quarterly Update on 2004-2005 Performance Measures
Final Report on Performance Measures

2004-2005

September 30, 2005
For July 2004 -June 2005

- (1) Numbers were preliminary and were revised.
- (2) The pattern of decrease suggests that resident travel was affected first by the hurricanes and then later in the year by gas prices.
- (3) Data reported reflect adjustment by DOR for both years
- (4) AWI adjusts these numbers each January.
- (5) Both periods reporting only July-May since this is the latest from DOR.
- (6) Both periods reporting only July-March since this is the latest from DOR.
- (7) Loss of partners and promotions due to hurricane and related issues.
- (8) Redesign of website offers greater amounts of information.
- (9) Hurricane recovery funds and reallocation of portions of core budget to broadcast greatly increased impressions.
- (10) Call to action in advertising has been changed to website rather than toll-free number, based on consumer demand.
This has reduced the mailing of printed material accordingly, with a corresponding increase in website activity.
- (11) Promotions pulled during hurricanes.
- (12) Loss of partners due to hurricanes and related economics.
- (13) Loss of one strategic alliance partner due to its financial difficulties.

FISCAL YEAR ENDING 6/30/05

FISCAL YEAR ENDING 6/30/05

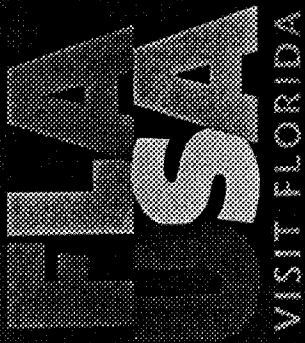
RECONCILIATION OF FUNDING

	Program	Budget allocation	Actual FY04-05	Variance Over/(Under)	%
Meeting Planners	Events, Direct Mail and CYE Insurance				
	Meeting Planner events and direct mail	661,262	642,280		
	Cover Your Event Insurance 2005 - 2007	687,750	687,826		
	Total Meeting Planners	\$1,349,012	\$1,330,106	(\$18,906)	-1.40%
Consumer Advertising and Promotions					
	Radio, TV, MLB and Visitor Information				
	Total Consumer Advertising and Promotions	\$2,788,688	\$2,808,166	\$19,478	0.70%
Public Relations					
	Media Tours, Missions, and Satellite Tours				
	Total Public Relations	\$112,300	\$112,088	(\$212)	-0.19%
Research					
	Pre and Post for Meeting Planners and Consumers				
	Total Research	\$25,000	\$24,975	(\$25)	-0.10%
Impact Grants					
	Distributed to Impacted Areas for Marketing				
	Total Impact Grants	\$475,000	\$474,999	(\$1)	0.00%
	Grand Total	\$4,750,000	\$4,750,333	\$333	0.01%

The overage of \$333 was funded out of general operating funds.

**VISIT FLORIDA
FY04-05 ECONOMIC RISK HURRICANE FUNDING - \$2M
ACTUALS**

Advertising	1,635,562
Research	121,885
Public Relations - Domestic	162,659
Public Relations - International	80,908
Total Public Relations	
TOTAL	2,001,014



VISIT FLORIDA

**As Presented to the
Governor and the Legislature
February 10, 2005**

**By
VISIT FLORIDA**

Hurricane Response

Budget Allocation Approach

**As Forwarded to the VISIT FLORIDA BOARD with
Endorsement
by the Marketing Council Steering Committee
January 20, 2005 and further modified at the Board's
Direction**

Funding Sources

- Governor's Market Protection Fund: \$ 4.75 m
(Does not include the \$2 m Economic Risk Recovery Fund Replenishment)
- VISIT FLORIDA re-directed programs: \$ 1.418 m

TOTAL

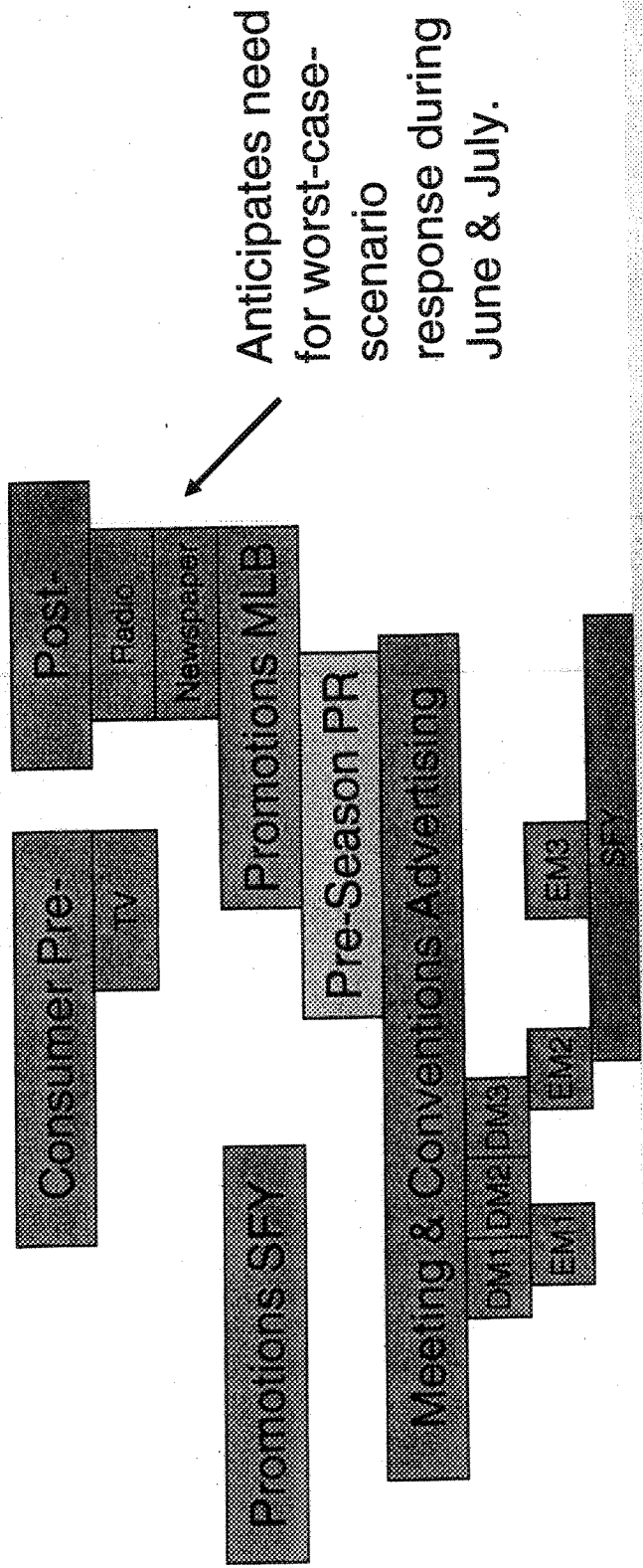
\$ 6.168 m

Communication Objectives/Tactics

- Reduce consumer perceptions of Florida with “limited options” and “unlikely to visit” attitudes through integrated marketing program, leveraging enhanced “Color of Florida” advertising campaign, PR, Sales and Promotions.
- Eliminate perceived risk in booking events in Florida by blanketing meetings & conventions targets with “Better Chance” and “Weather Warranty” messages.
- Prepare for July – September response should pre-season efforts fall short.

Timing Option 1

(Recommended and As Endorsed by MCSC)



Traditional PR: \$12 m

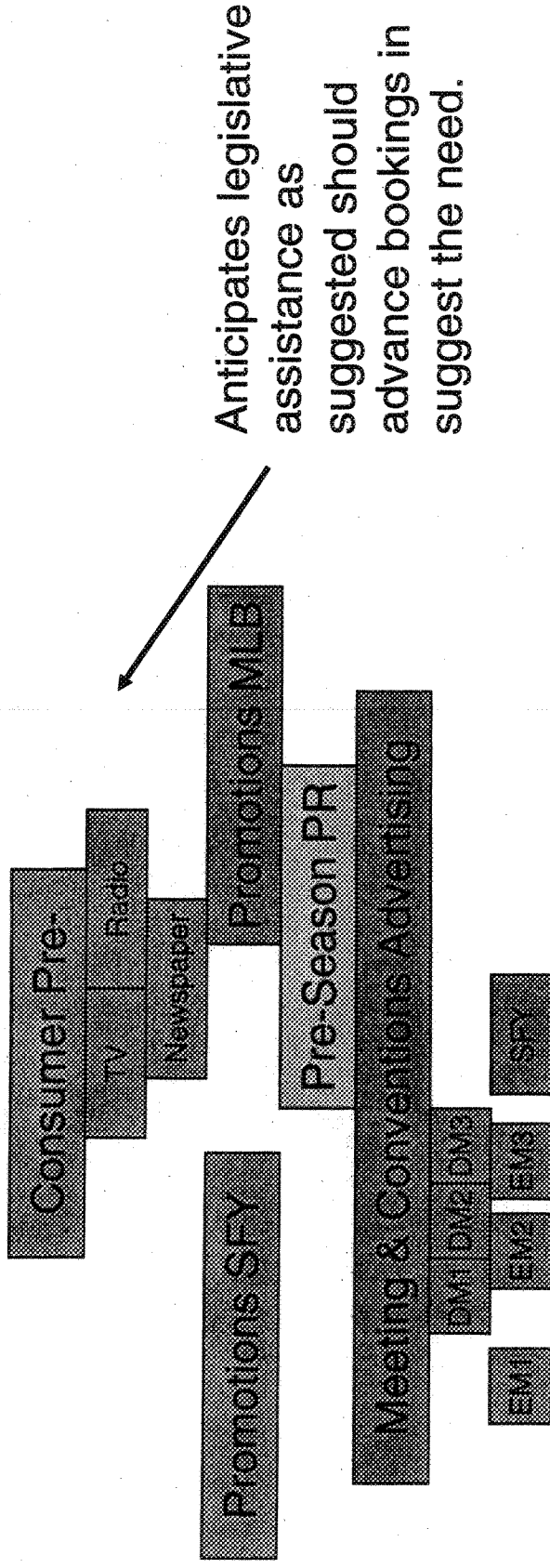
Traditional Promotions Activity: February – June \$14.5 m

Traditional Sales

Traditional Seasonal Advertising: February – June \$5.280 m

Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.
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Timing Option 2 (not adopted)



Traditional PR: \$12 m

Traditional Promotions Activity: February – June \$14.5 m

Traditional Sales

Traditional Seasonal Advertising: February – June \$5.280 m

Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.
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Budget Allocations

• Meetings/Conventions	1,450,000
• Consumer Broadcast	2,879,900
• Newspaper Co-Op	546,000
• Impact Area Grants	475,000
• MLB Promotions/Adv.	250,000
• PR	100,000
• Visitor Services	60,000
• Research	25,000
• Fees, Licenses, Production	<u>382,100</u>
• TOTAL	\$ 6,168,000

Impact Area Grants

- Total allocation: \$475,000 (10% of Governor's Fund)
- Criteria to be developed and judged by Marketing Council Steering Committee Task Force, chaired by Richard Goldman, following methodologies in place for existing grant programs (i.e., Matching Adv. Grants, Multicultural Grants).

Sample criteria

- Bureaus which do not have large budgets to supplement efforts (\$3 million or less?)
- Priority given to long-term programs (Visitor's Guides) versus short-term programs.
- Demonstrated adverse economic impact
 - Sales tax/tourist development tax
 - Minimum percentage of total lodging loss (one-third)
- Reasonable recovery timeframe within 1 year
- Annual tourist development tax under \$3 million/\$5million.
- Demonstrated budget funds committed from other resources to tourism structural elements (beach renourishment)
- Direct negative media impact

Meetings & Conventions

- Weather Warranty (or final name TBD):
 - \$12 mil each month (August – October 2005)
 - Each group receives max \$200,000 limit on supplemental coverage dedicated to three categories:
 - Rate differentials
 - Re-marketing costs
 - Registration fee or meeting revenues loss
 - Other contractual obligations
 - \$12 m monthly capacity = 60 - 120 events per month

<u>Room Nights</u>	<u>Coverage</u>
• 100-300	\$100k
• 301-500	\$150k
• 501+	\$ 200k
- Event must take place at Partner property
- Minimum 2 night stay and 50 rooms/night covered.
- Must re-schedule within reasonable period (12 months)
- Program offered and managed by Marsh Affinity Group, a service of Seabury & Smith (based in Chicago)

Meetings & Conventions

Direct Marketing Efforts

- Direct Mail Campaign (3 mailings)
 - Mailing One: Mass distribution <75,000 planners
 - Mailing Two: Premium distribution <10,000 planners
 - Mailing Three: Mass distribution <75,000 planners
- E-mail Campaign
 - Multi-distributions
- See For Yourself Planner Sweepstakes

See For Yourself

Planner Sweepstakes

- Direct mail, PR and e-mail blasts solicit entries.
- 250 prizes
 - Two air tickets (Planner and guest)
 - Rental car
 - Two-night accommodations
- Partners (CVBs) can reserve Planners slots by providing the accommodation of the Sweepstakes Package and cash-contribution of \$200 per planner.
- Co-Op opportunities with direct mail campaign available to Partners.
- During Sweepstakes entry, Planners indicate top three destination preferences when they complete registration form.

Consumer Marketing

- Advertising
 - Normal schedule: February – June: \$5,280,570
 - Spot TV Dedicated Florida Brand
 - Summer pre-planning period—April
 - 150 GRPs; 2/2/2; Effective Reach: 57%, 3+
 - 10 Markets: NY, ATL, CHI, BIR, NO, CLE, MON, NAS, MEM, CHAR
 - Out-of-State Co-Op Radio
 - May-June (shift according to market conditions)
 - 150 GRPs; 2/2/2; Effective Reach: 70%, 3+
 - 14 Markets: NY, ATL, CHI, DAL, BIR, NO, CLE, MON, NAS, MEM, CHAR, HOU, RAL, GR/SP
 - Hispanic: NY, CHI, DAL, HOU
 - African American: NY, ATL, CHI, DAL, BIR, NO, CLE, MON, NAS, MEM, CHAR, HOU, RAL, GR/SP
 - Banner Newspaper Co-Op
 - Min. 4 insertions
 - 11 Markets NY, ATL, CHI, DAL, BIR, NO, CLE, MON, NAS, MEM, CHAR
 - In-State Co-Op Radio
 - May-June
 - 150 GRPs; 2/2/2; Effective Reach: 70%, 3+
 - 11 Markets: MIA, TPA, WPB, TAL, FTM, JAX, ORL, DB, GAIN, PC, PEN

Consumer Marketing

- Promotions
 - See for Yourself Sweepstakes (Jan-March)
 - Trip awarded each day tied to radio promotions in 12+ markets.
 - Mirrored by online sweepstakes on consumer site.
 - Florida Fridays (MLB)
 - Trip awarded each week in select home-team markets.
 - Mirrored by online sweepstakes on consumer site.

Budget Allocations

• Meetings/Conventions	1,450,000
• Consumer Broadcast	2,879,900
• Newspaper Co-Op	546,000
• Impact Area Grants	475,000
• MLB Promotions/Adv.	250,000
• PR	100,000
• Visitor Services	60,000
• Research	25,000
• Fees, Licenses, Production	<u>382,100</u>
• TOTAL	\$ 6,168,000

**VISIT FLORIDA
FY04-05
HURRICANE GRANTS**

Organization name	County	Amount Allocated
Charlotte County Visitor's Bureau	Charlotte	\$50,000
Cocoa Beach Area Chamber of Commerce	Brevard	\$43,000
Greater Fort Myers Beach Area Chamber of Commerce	Lee	\$50,000
Martin County Tourist Development Council	Martin	\$44,140
Pahokee Chamber of Commerce	Palm Beach	\$50,000
Polk County Tourism & Sports Marketing (Central FL CVB)	Polk	\$44,140
Santa Rosa Co. Tourist Development Council	Santa Rosa	\$50,000
Santa Rosa Island Authority	Escambia	\$49,579
Sebastian River Area Chamber of Commerce	Indian River	\$44,140
St. Lucie County Board of County Commissioners	St. Lucie	\$50,000
	Total Allocated	\$475,000